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**California  
Child Welfare Services/  
Case Management System  
(CWS/CMS)  
New System  
Project Management Support Services**

**REQUEST FOR PROPOSAL  
(RFP)**

**RFP #4130-161 PMSS**

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December 6, 2006



# Request For Proposal

## Child Welfare Services/Case Management System

CWS/CMS New System Project Management Support Services RFP #4130-161 PMSS

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### **1. INTRODUCTION AND OVERVIEW**

This Request for Proposal (hereafter referred to as the RFP) is to obtain Project Management Support Services (PMSS), as detailed in Section 6 - Functional and Technical Requirements, for the State of California's Child Welfare Services Case Management System (CWS/CMS) New System (NS) Project to replace the current CWS/CMS with a web-based system. These systems support the Child Welfare System (CWS) Program. The CWS Program is the statewide social services program, which investigates allegations of child abuse and neglect, provides foster care services, and provides services to safely return children to their families or an alternative permanent placement such as guardianship or adoption. Services are provided by all 58 counties and the California Department of Social Services (CDSS) Adoptions District Offices.

Bidders are hereby advised that this solicitation/acquisition is being conducted under Public Contract Code 121000 and the provisions of the Alternative Protest Pilot Project (Public Contract Code Section 12125, et seq.). By submitting a bid to this solicitation conducted under the Alternative Protest Pilot Project procedures, Bidders agree that all protests of the proposed award be resolved by binding arbitration. See Section 2.5.1.2 regarding the details of the Alternative Protest Pilot Project Procedures. Bidders are also hereby advised that the State's Information Technology (IT) General Provisions have been modified for this CWS/CMS procurement. See Exhibit A Standard Agreement (STD 213) For IT Goods/Services only, with attached contract language.

#### ***1.1 CWS/CMS Description***

The CWS/CMS is a critical tool in providing Child Welfare-based services. It is a statewide, automated system that allows county and State CWS workers, and management to effectively and efficiently meet the needs of families and children served by the CWS program. CWS/CMS also meets statutory and regulatory mandates. All 58 California counties and CDSS utilize the CWS/CMS. The CDSS monitors and provides support and guidance to the counties through administrative oversight, fiscal support, and the development of program policies. The CDSS also takes a direct yet limited role in the provision of adoption services through six district offices and in the licensing of substitute care providers. All 58 California counties provide CWS services and a limited number of counties provide licensing and adoption services.

The primary purpose of the CWS/CMS is to enhance and support the effectiveness of California's CWS Program. The system:

- Provides child welfare social work staff with immediate access to child, family, and case-specific information in order to make sound and timely case decisions;
- Provides child welfare social work staff with current and accurate information to effectively and efficiently manage their caseloads and take appropriate and timely case management actions;

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- Provides State and county administrators with the information needed to monitor and evaluate the achievement of program goals and administer programs;
- Provides State and county child welfare agencies with a common database and definition of information with which to evaluate CWS; and
- Consolidates the collection and reporting of information for child welfare programs pursuant to State and Federal requirements.

### **1.2 CWS/CMS Background**

The current CWS/CMS was designed and developed over several years and initial implementation began in January of 1997. Final rollout and conversion activities were completed in June of 1998. The system is a large client/server application that provides individual county social work staff with direct network access to a statewide database. This distributed system is comprised of more than 19,000 workstations; 2,000 laptops; 395 servers; 2,900 printers; and other hardware; and utilized by over 19,000 users at over 429 sites in 58 counties and CDSS. Thirty-seven of the State's 58 counties are designated as "Dedicated" counties and operate only the CWS/CMS and its related applications. The remaining 21 counties are designated as "Coexistent" and operate CWS/CMS within other county Metropolitan Area Networks (MANs). The application is hosted by the Department of Technology Services (DTS) in Sacramento.

### **1.3 Purpose of this RFP**

The purpose of this RFP is to secure PMSS to ensure that the NS Project is conducted using best practices and standards in the Project Management Body of Knowledge (PMBOK) Third Edition and the Office of Systems Integration (OSI) Best Practices (see website below) for project management activities for the redevelopment of a large existing client-server application as a web-based service oriented architecture application.

**OSI Best Practices Website: <http://www.bestpractices.cahwnet.gov>**

The procurement of services for this Statement of Work (SOW) will be conducted by the Department of General Services (DGS) for the Office of Systems Integration (OSI) of the Health and Human Services Agency.

Issuance of this RFP in no way constitutes a commitment by the State of California to award a contract. The State reserves the right to reject any or all proposals received if the State determines that it is in the State's best interest to do so. The State may reject any proposal that is conditional or incomplete. Any assumptions made by the Bidder in responding to this RFP are just that, assumptions of the Bidder and do not obligate the State in any way. Additionally, assumptions may make the proposal conditional and be cause for the proposal to be rejected. Responses to this RFP will be evaluated based on the total proposal, and the award, if made, will be to a single Bidder.

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### **1.4 Availability**

The selected vendor must meet the requirements of this RFP and be available on or before the services commence date specified in Section 1.8, Key Action Dates.

### **1.5 Period of Performance**

The period of performance for this contract will commence on the date of contract award (See Section 1.8, Key Action Dates) and will continue for three consecutive years plus two optional one-year extensions. Options to extend shall be exercised in the sole discretion of the State.

### **1.6 Important Bidder Information**

To be afforded the benefits of the steps included in this RFP, the Bidder must:

- Carefully read the entire RFP;
- Ask appropriate questions in a timely manner if clarification is necessary;
- Submit all complete required responses by due dates and times; and,
- Make sure that all procedures and requirements of the RFP are accurately followed and appropriately addressed.

### **1.7 Procurement Division Official**

Submit questions and proposals to:

Department of General Services – Procurement Division

Attention: Tom Abeyta

707 Third Street, 2<sup>nd</sup> Floor

West Sacramento, CA 95605

Phone: (916) 375-4491

E-mail: [tom.abeyta@dgs.ca.gov](mailto:tom.abeyta@dgs.ca.gov)

### **1.8 Key Action Dates**

Listed below are key actions, dates, and times by which the activities must be taken or completed for this RFP. All times are to be considered as Pacific Standard Time (PST). If the State finds it necessary to change any dates up to and including Final Proposals Due, it will be accomplished via an addendum to this RFP. All other dates after submission of Final Proposals are tentative and may be adjusted with or without the issuance of an addendum. Various forms of communication will be used to notify participating Bidders of changes to the key dates.



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**Table 1. Key Action Dates**

| Key Action   | Date         | Time      |
|--|--------------|-----------|
| 1. Release of RFP  | 12/6/06      |           |
| 2. Last day for Bidders to submit questions prior to Letter of Intent to Bid   | 12/13/06     | 5:00 p.m. |
| 3. Publish response to questions   | 12/20/06     |           |
| 4. Last day for Bidder to submit Letter of Intent to Bid, Statement of Experience and Financial Condition, and Confidentiality Statement | 12/22/06     | 5:00 p.m. |
| 5. Draft Proposals due   | 1/4/07       | 5:00 p.m. |
| 6. Conduct Confidential Discussions  | 1/16-19/07   |           |
| 7. Last day for Bidders to submit questions prior to Final Proposal due  | 1/26/07      | 5:00 p.m. |
| 8. Publish response to questions   | 2/5/07       |           |
| 9. Last day to request changes to the RFP  | 2/9/07       |           |
| 10. Last day for Requirements (Initial) Protest  | 2/20/07      |           |
| 11. Final Proposals due  | 2/26/07      | 5:00 p.m. |
| 12. Conduct Proposal Evaluations   | 2/27-3/2/07  |           |
| 13. Approval of Evaluation Selection Report  | 3/6/07       |           |
| 14. Conduct Public Cost Envelope Opening   | 3/8/07       |           |
| 15. Complete Proposal evaluation   | 3/12 – 13/07 |           |
| 16. Publish Notice of Intent to Award  | 3/14/07      |           |
| 17. Last day for Bidders to protest the award  | 3/14/07      |           |
| 18. Contract award   |              |           |
| 19. Services commence pending Federal Partner Approval   |              |           |

### **1.9 Compliance with the Americans with Disabilities Act**

This procurement is being conducted in full compliance with the terms of the Americans with Disabilities Act (ADA). Refer to Exhibit B – ADA NOTICE.

### **1.10 Participating Bidders**

This procurement will be conducted using the Alternative Protest process that is fully described in Section 2 - Rules Governing Competition, and the procurement will use the following bidding steps:

1. Letter of Intention to Bid, Statement of Experience and Financial Condition, and Signed Confidentiality Statement
2. Draft Proposal

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### 3. Final Proposal

#### **1.11 CWS/CMS Bidder Library Documentation**

The State will make available a wide variety of CWS/CMS related materials in an electronic Bidders' library, accessible via the Internet at the following website:

[www.osi.ca.gov](http://www.osi.ca.gov)

**Choose the following in the specific order given:**

**CWS/CMS projects: New System Project: Bidder Info: Bidder Library**

**This will take Contractors to an Interwoven's Worksite. It is the responsibility of Contractors to contact the Procurement Contact for the logon and password.**

Contractors are encouraged to review the library material to gain a thorough understanding of the CWS/CMS and the business and technical environment in which it operates. Contractors should check back frequently for updates in the Bidder Library.

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## **2. RULES GOVERNING COMPETITION**

The purpose of competitive bidding is to secure public objectives in the most value-effective manner and avoid the possibilities of graft, fraud, collusion, etc. Competitive bidding is designed to benefit the State and is not for the benefit of the Bidders. It is administered to accomplish its purposes with sole reference to the public interest. It is based upon full and free bidding to satisfy State specifications, and acceptance by the State of the most value-effective solution to the State's requirements, as determined by the evaluation criteria contained in the RFP.

### ***2.1 Identification and Classification of RFP Requirements***

Section 2 of this RFP describes the entire procurement process. Specific guidelines for the submission of a response to this RFP are found in Section 8, Proposal Format and Content.

#### **2.1.1 Mandatory Requirements**

The State has established certain requirements with respect to proposals to be submitted by prospective Bidders<sup>1</sup>. The use of "shall," "must," or "will" in this RFP indicates a requirement or condition, which is mandatory. A deviation, if not material, may be waived by the State. A deviation from a requirement is material if the response is not in substantial compliance with the RFP requirements, provides an advantage to one Bidder over other Bidders, or has a potentially significant affect on the delivery, quantity or quality of items bid<sup>2</sup>, amount paid to the Bidder, or on the cost to the State. Material deviations cannot be waived.

#### **2.1.2 Desirable Items**

The words "should" or "may" in this RFP indicate desirable attributes or conditions, but are non-mandatory in nature.

### ***2.2 Proposal Requirements And Conditions***

#### **2.2.1 General**

This RFP, the evaluation of responses, and the award of any resulting contract shall conform with current competitive bidding procedures as they relate to the procurement of information technology goods and services by the State of California. A Bidder's Final Proposal is an irrevocable offer for 180 calendar days following the scheduled date for Contract Award in the

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<sup>1</sup> For the purposes of the instructions of this RFP, all entities that have identified their intent to be a Bidder to the Procurement Official are called Bidders until such time that the Bidder withdraws or other facts indicate that the Bidder has become nonparticipating.

<sup>2</sup> The word "bid" as used throughout this document is intended to mean "proposed," "propose" or "proposal" as appropriate.

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Key Action Dates specified in Section 1, Introduction and Overview. A Bidder may extend the offer in the event of a delay of Contract Award.

### **2.2.2 RFP Documents**

This RFP includes the State's requirements and instructions, which prescribe the format and content of proposals to be submitted. The State's required contract for this procurement is found in Exhibit A.

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Bidder shall immediately notify the Procurement Official identified in Section 1, Introduction and Overview, of such error in writing and request clarification or modification of the document. Modifications will be made by addenda issued pursuant to Section 2.2.6, Addenda. Such clarifications shall be provided to all parties that have identified themselves as bidders to the Procurement Official for this RFP, without divulging the source of the request. Insofar as practicable, the State will give such notices to other interested parties, but the State shall not be responsible for providing notice to all interested parties.

If this RFP contains an error known to the Bidder, or an error that reasonably should have been known, the Bidder submits their proposal at their own risk. If the Bidder fails to notify the State of the error prior to the date fixed for submission of proposals, and is awarded the contract, the Bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

### **2.2.3 Examination of the Work**

The Bidder should carefully examine the entire RFP and any issued addenda and all related materials and data referenced in this RFP or otherwise available to the Bidder, and should become fully aware of the nature and location of the work, the quantities of the work, and the conditions to be encountered in performing the work. Specific conditions to be examined are listed in Section 5, Administrative Requirements, and Section 6, Functional and Technical Requirements.

### **2.2.4 Questions Regarding the RFP**

Bidders requiring clarification of the intent or content of this RFP or on procedural matters regarding the competitive proposal process may request clarification by submitting questions, in an email or envelope clearly marked "Questions Relating to RFP #4130-161 PMSS" to the Procurement Official listed in Section 1, Introduction and Overview. To ensure a response prior to submission of the proposals, questions must be received by the Procurement Official, in writing, by the scheduled date(s) in the Key Action Dates specified in Section 1, Introduction and Overview. If a Bidder submits a question after the scheduled dates(s) the State will attempt to answer the question but does not guarantee that the answer will be prior to the proposal due date. Question and answer sets will be provided to all Bidders without identifying the submitters. The State will publish the questions as they are submitted

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including any background information provided with the question; however, the State at its sole discretion may paraphrase the question and background content for clarity.

### **2.2.5 Request to Change the Requirements of the RFP**

If the Bidder believes that one or more of the RFP requirements is onerous, unfair, or imposes unnecessary constraints on the Bidder in proposing less costly or alternate solutions, the Bidder may request a change to this RFP by submitting, in writing, the recommended change(s) and the facts substantiating this belief and reasons for making the recommended change. Such requests must be submitted to the Procurement Official by the date specified in the Key Action Dates specified in Section 1, Introduction and Overview, for requesting a change in the requirements.

### **2.2.6 Addenda**

The State may modify the RFP prior to the date fixed for Contract Award by issuance of a notification to all Bidders that are participating in the procurement process at the time that an addendum has been issued, unless the amendments are such as to offer the opportunity for nonparticipating Bidders to become participating, in which case, the addendum will be sent to all Bidders that have identified their intent to be a Bidder to the Procurement Official. Addenda will be numbered consecutively. If any Bidder determines that an addendum unnecessarily restricts its ability to propose, the Bidder is allowed five (5) working days to submit a protest to the addendum according to the instructions contained in Section 2.5.1.1, Requirements (Initial) Protest.

### **2.2.7 Bonds**

Each agency reserves the right to require a performance bond. If a performance bond is required for this procurement, it will be specified in Section 5, Administrative Requirements.

### **2.2.8 Exclusion for Conflict of Interest**

No consultant shall be paid out of State funds for developing recommendations on the acquisition of Information Technology (IT) products or services or assisting in the preparation of a feasibility study, if that consultant is to be a source of such acquisition or could otherwise directly and/or materially benefit from State adoption of such recommendations or the course of action recommended in the feasibility study. Further, no consultant shall be paid out of State funds for developing recommendations on the disposal of State surplus IT products, if that consultant would directly and/or materially benefit from State adoption of such recommendations.

### **2.2.9 Follow-on Contracts (Public Contract Code 10365.5)**

No person, firm or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies or any other related action, which is required, suggested or

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otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant who contracts with a State agency to develop formal recommendations for the acquisition of IT products or services is precluded from contracting for any work recommended in the formal recommendations (formal recommendations include, among other things, feasibility studies).

### 2.2.10 Disclosure of Financial Interests

Proposals in response to State procurements for assistance in preparation of feasibility studies or the development of recommendations for the acquisition of IT products and services must disclose any financial interests (e.g., service contract, Original Equipment Manufacturer (OEM) agreements, re-marketing agreements) that may foreseeable allow the individual or organization submitting the proposal to materially benefit from the State's adoption of a course of action recommended in the feasibility study or the acquisition recommendations. If, in the State's judgment, the financial interest will jeopardize the objectivity of the recommendations, the State may reject the proposal. See Exhibit D – Financial Interest Disclosure, for disclosing financial interest related to this procurement.

## 2.3 Bidding Steps

### 2.3.1 Preparation of Proposals

Section 2.5.4, Competitive Bidding and Proposal Responsiveness, emphasizes the requirements of competitive bidding and contains examples of common causes for rejection of proposals. Bidders are encouraged to review this section.

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of the Bidder's compliance with the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.

Before submitting each document, the Bidder should carefully read the Proposal for errors and adherence to the RFP response requirements.

### 2.3.2 Bidder's Intention to Submit a Proposal

Bidders that want to participate in the RFP steps are encouraged to submit a notice of intention to propose on this procurement in order to receive notifications. Only those Bidders that submit a Letter of Intention to Bid (Exhibit C), stating that they intend to submit a proposal for this RFP will receive notifications regarding this procurement. The letter should identify the contact person for the solicitation process, plus their phone and fax numbers and e-mail address. The State is responsible for notifying one contact person per Bidder. Information related to a Bidder will be given to the designated contact person. It shall be the Bidder's responsibility to immediately notify the

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Procurement Official, in writing, regarding any revisions to the information. The State shall not be responsible for proposal correspondence not received by the Bidder if the Bidder fails to notify the State, in writing, of any revisions.

Bidders who wish to participate are asked to return the Letter of Intent to Bid to the Procurement Official listed in Section 1, Introduction and Overview, to ensure they remain on the State of California's official list of participating Bidders. If the letter is not submitted by the date as specified in the Key Action Dates in Section 1, Introduction and Overview, or the Bidder does not participate in a bid step, the State reserves the right to drop them from the participating Bidder list and they will not receive any further correspondence until they contact the Procurement Official and indicate that they would like further correspondence.

### 2.3.3 Draft Proposals

Submission of a Draft Proposal is strongly recommended. However, Bidders are not required to submit a Draft Proposal. If Draft Proposals are submitted, Bidders must submit them by the date and time in the Key Action Dates specified in Section 1, Introduction and Overview. The Draft Proposals must be complete in all respects except that dollar cost information must be replaced by XXXs. At the sole discretion of the State, the State Evaluation Team may evaluate each Draft Proposal received by the Draft Proposal submission date specified in the Key Action Dates in Section 1, Introduction and Overview, unless the Draft Proposal is so defective that the State does not believe that its time to evaluate the Draft Proposal would result in the Bidder being able to correct the deficiencies prior to the Final Proposal due date, or the Bidder has placed conditions in the Draft Proposal that are unacceptable to the State. For Draft Proposals that are evaluated the Bidder will be notified of any defects the State has noted. Draft proposals received late may be reviewed if the Procurement Official believes there is enough time and resources to do so. Notifying the Bidder of defects is intended to minimize the risk that the Final Proposal will be deemed non-compliant; however, **the State will not provide any warranty that the Draft Proposal will be evaluated even if accepted for review, or that any or all defects in the Draft Proposal have been detected. Notification of defects in the Draft Proposal will not preclude rejection of the Final Proposal if undiscovered defects contained in the Draft Proposal are later found in the Final Proposal. Draft proposals marked as confidential, proprietary or as trade secret will not be reviewed and shall be returned to the Bidder.**

### 2.3.4 Confidential Discussions

The State may conduct confidential discussions with Bidders submitting Draft Proposals that have been reviewed by the State. At the confidential discussion, the State will identify areas of the Bidder's Draft Proposal that may not be fully compliant with the requirements of the RFP and areas that are confusing to the State Evaluation Team. Oral statements made by either party during confidential discussions shall not be binding. The order in which

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confidential discussions will be conducted will be determined by random selection among all Bidders submitting Draft Proposals.

### **2.4 Final Proposal**

#### **2.4.1 Submission of Final Proposal**

Final Proposals must be complete in all respects as required by Section 8, Proposal Format and Content. A Final Proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Proposal shall be rejected if any such defect or irregularity constitutes a material deviation from the RFP requirements. The Final Proposal must contain all costs required by Section 7, Cost, and Section 8, Proposal Format and Content. Cost data, including any electronic copies (as identified in Section 8, Proposal Format and Content) must be submitted under separate, sealed cover. If the cost data are not submitted under separate sealed cover, the proposal may be rejected. This section describes specific guidelines applicable to the submission of the Final Proposal to the RFP and is applicable to the new Final Proposal if all original Final Proposals are declared flawed by the Evaluation Team.

##### **2.4.1.1 Bidder's Costs**

Costs for developing Proposals are entirely the responsibility of the Bidder and shall not be chargeable to the State.

##### **2.4.1.2 Completion of Proposals**

Proposals must be complete in all respects as required by the RFP Section 8, Proposal Format and Content. A Final Proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Proposal shall be rejected if any defect or irregularity constitutes a material deviation from the RFP requirements. The Final Proposal must contain all costs required by the RFP sections on Cost and Proposal Format. Cost data, including any electronic copies, must be submitted under a separate, sealed cover.

Section 2.5.4, COMPETITIVE BIDDING AND PROPOSAL RESPONSIVENESS, emphasizes the requirements of competitive bidding and contains examples of common causes for rejection of proposals. Bidders are encouraged to review this exhibit.

##### **2.4.1.3 False or Misleading Statements**

Proposals which contain false or misleading statements or which provide references which do not support an attribute or condition claimed by the Bidder may be rejected. If, in the sole opinion of the State, such information was intended to mislead the State in its evaluation of the Proposal and the attribute, condition, or capability



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is a requirement of this RFP, it will be the basis for rejection of the Proposal.

### 2.4.1.4 Signature of Proposals

A cover letter (which shall be considered an integral part of the submission) shall be signed by an individual who is authorized to bind the bidding firm contractually. The signature block must indicate the title or position that the individual holds in the firm. **An unsigned Final Proposal shall be rejected.**

If a Draft Proposal is submitted, it must also contain the cover letter, similarly prepared, including the title of the person who will sign, but need not contain the signature.

### 2.4.1.5 Delivery of Proposals

The Draft Proposal and Final Proposal must be submitted by the date and time specified in the Key Action Dates specified in Section 1, Introduction and Overview. If mailed, proposals must be received by the Department of General Services on or before the specified date and time. Mail or deliver proposals to the Department of General Services Procurement Official listed in Section 1, Introduction and Overview. If mailed, it is suggested that you use certified or registered mail with return receipt requested as delivery of proposals is done at the Bidder's own risk of untimely delivery, lost mail, etc.

Proposals must include the number of copies stated in Section 8, Proposal Format and Content. Proposals must be received no later than the dates and times in the Key Action Dates specified in Section 1, Introduction and Overview. One (1) copy must be clearly marked "Master Copy". All copies of proposals must be under sealed cover, which is to be plainly marked "FINAL PROPOSAL for RFP #4130-161 PMSS". **Final Proposals not received by the date and time in the Key Action Dates specified in Section 1, Introduction and Overview, will be rejected.**

As required in Section 8, Proposal Format and Content, all cost data must be submitted under separate, sealed cover and clearly marked "COST DATA for RFP #4130-161 PMSS". If cost data is not submitted separately sealed, the proposal may be rejected. Proposals submitted under improperly marked covers may be rejected. If discrepancies are found between two or more copies of the proposal, the proposal may be rejected. However, if not rejected, the Master Copy is the basis for resolving discrepancies.

### 2.4.1.6 Withdrawal and Resubmission/Modification of Proposals

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A Bidder may withdraw its Final Proposal at any time prior to the proposal submission date and time in the Key Action Dates specified in Section 1, Introduction and Overview, by submitting a written notification of withdrawal signed by the Bidder authorized in accordance with Section 2.4.1.4, Signature of Proposals. The Bidder may thereafter submit a new or modified proposal prior to such proposal submission date and time. Modification offered in any other manner, oral or written, will not be considered. Clarifications of Final Proposals shall not be considered to be modifications. Final Proposals cannot be changed or withdrawn after the date and time designated for receipt, except as provided in Section 2.4.9, Errors in the Final Proposal.

### 2.4.2 Clarification of Final Proposals

During the evaluation of the Final Proposal, the State Evaluation Team may ask the Bidder to clarify their submitted information but will not allow the Bidder to change their proposal.

### 2.4.3 Flawed Final Proposals

At the State's sole discretion, it may declare all Final Proposals to be Draft Proposals in the event that the State Evaluation Team determines that Final Proposals from all Bidders contain material deviations. Bidder may not protest the evaluation team's determination that all proposals have material deviations. If all proposals are declared noncompliant, the State will issue an addendum to the RFP and confidential discussions will be held with Bidders who are interested in continuing to be considered. Each Bidder will be notified of the due date for the submission of a new Final Proposal to the State. This submission must conform to the requirements of the original RFP, and as amended by any subsequent addenda. The new Final Proposals will be evaluated as required by Section 9, Evaluation and Selection.

### 2.4.4 Confidentiality

The contents of all proposals, including correspondence, agenda, memoranda or any other medium, which discloses any aspect of a Bidder's Final Proposal will be held in confidence by the State, but only until the notice of intent to award has been issued. Bidders should be aware that marking any portion of a Final or Draft Proposal as "confidential", "proprietary" or "trade secret" shall exclude it from evaluation or consideration for award, unless specifically approved by the State in writing prior to submission of the Final or Draft Proposal. Even providing such Proposal is accepted for evaluation by the State such markings in a Proposal will not keep that document, after notice of intent to award, from being released as part of the public record, unless a court of competent jurisdiction has ordered the State not to release the document. The content of all working papers and discussions relating to the Bidder's Draft Proposal, if retained, shall be held in confidence indefinitely unless the public interest is best served by an item's disclosure because of its direct pertinence to a decision, agreement or the evaluation of the proposal. Any disclosure of State confidential information by

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the Bidder is a basis for rejecting the Bidder's proposal and ruling the Bidder ineligible for further participation.

Maintaining the confidentiality of information that is designated as confidential by the State is paramount; it cannot be over-emphasized.

### **2.4.5 Sealed Cost Data Openings**

Final Proposals will not have their sealed cost data envelopes opened until the State has evaluated and scored the technical and administrative submission. Cost Proposals will only be opened for responsive proposals from responsible Bidders. On the date of the cost opening, the State will post a summary of the points awarded to each Bidder. This summary will be provided to all the Bidders and the public in attendance at the cost opening as well as persons who request the summary.

### **2.4.6 Rejection of Proposals**

The State may reject any or all proposals and may waive any immaterial deviation or defect in a proposal. The State's waiver of any immaterial deviation or defect shall in no way modify the RFP documents or excuse the Bidder from full compliance with the RFP specifications if awarded the contract.

### **2.4.7 General**

Final Proposals will be evaluated according to the procedures contained in Section 9, Proposal Evaluation and Selection.

### **2.4.8 Evaluation Questions**

During the evaluation and selection process, the State may require a Bidder's representative to answer specific questions and provide clarification, as long as the answers and clarification is in writing.

### **2.4.9 Errors in the Final Proposal**

An error in the Final Proposal may cause the rejection of that proposal; however, the State, in its sole discretion, may retain the proposal and make certain corrections. In determining if a correction will be made, the State will consider the conformance of the proposal to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP.

The State, in its sole discretion, may correct obvious clerical errors.

The State, in its sole discretion, may correct discrepancy and arithmetic errors on the basis that, if intent is not clearly established by the complete proposal submittal, the Master Copy shall have priority over additional copies; the Proposal Master Copy narrative shall have priority over the cost sheets. If necessary, the extensions and summary will be recomputed from the lowest level of detail, even if the lowest level of detail is obviously misstated. The

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total price of unit-price items will be the product of the unit price and the quantity of the item. If the unit price is ambiguous, unintelligible, uncertain for any cause, or is omitted, it shall be the amount obtained by dividing the total price by the quantity of the item.

If a Bidder does not follow the instructions for computing costs not related to the contract (e.g., State personnel costs), the State may reject the proposal, or in its sole discretion, re-compute such costs based on instructions contained in the RFP.

The State may at its sole option correct errors of omission and, in the following three situations, the State will take the indicated actions if the Bidder's intent (as determined by the State) is not clearly established by the complete proposal submittal.

1. If an item is described in the narrative and omitted from the cost data provided in the proposal for evaluation purposes, it will be interpreted to mean that the item will be provided by the Bidder at no cost.
2. If an item is not mentioned at all in the proposal, the proposal will be interpreted to mean that the Bidder does not intend to supply that item.
3. If an item is omitted, and the omission is not discovered until after contract award, the Bidder shall be required to supply that item at no cost.

The determination of whether an item is minor or major will be the responsibility of the State.

**It is absolutely essential that Bidders carefully review the cost elements in their Final Proposal.**

In the event an ambiguity or discrepancy between the general requirements described in Section 3, Current System, and the specific functional and technical requirements set forth in Section 6, Functional and Technical Requirements, is detected after the opening of proposals, Section 6.1, Statement of Work and the Bidder's response thereto, shall have priority over Section 3, Current System and the Bidder's response thereto.

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### 2.4.10 Contract Award

Award of contract, if made, will be in accordance with Section 9, Proposal Evaluation, to a responsible Bidder whose Final Proposal complies with the requirements of the RFP and any addenda thereto, except for such immaterial defects as may be waived by the State. Award, if made, will be made within 180 calendar days after the scheduled date for the Contract Award as set forth in the Key Action Dates Section 1, Introduction and Overview, unless a protest is received. If a protest is received, the Award, if made, will be made within 180 calendar days after the protest is resolved.

The State reserves the right to modify or cancel in whole or in part its RFP prior to contract award.

### 2.4.11 Debriefing

A debriefing will be held after Contract Award at the request of any Bidder for the purpose of receiving specific information concerning the evaluation. The discussion will be based primarily on the technical and cost evaluations of the Bidder's Final Proposal. A debriefing is not the forum to challenge the RFP specifications or requirements.

## 2.5 Other Information

### 2.5.1 Protests

There are two types of protests, requirements protests and award protests. Protests regarding any issue other than selection of the "successful Bidder" are requirements protests and will be heard and resolved by the Deputy Director of the Department of General Services Procurement Division, whose decision will be final.

#### 2.5.1.1 Requirements (Initial) Protest

Before a protest is submitted regarding any issue **other than** selection of the "successful Bidder," the Bidder must make full and timely use of the procedures described in Section 2.2.4, Questions Regarding the RFP and Section 2.2.5, Request to Change the Requirements of the RFP, to resolve any outstanding issues between the Bidder and the State. This procurement procedure is designed to give the Bidder and the State adequate opportunity to submit questions and discuss the requirements before the Final Proposal is due. The protest procedure is made available in the event that a Bidder cannot reach a fair agreement with the State after exhausting these procedures.

**All protests of the RFP requirements or procedures must be received by the Deputy Director of the Procurement Division as promptly as possible, but not later than the respective time and date in the Key Action Dates specified in Section 1, Introduction and Overview, for such protests.**

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### 2.5.1.2 Award Protest

This solicitation/acquisition is being conducted under the provisions of the Alternative Protest Pilot Project (Public Contract Code Section 12125, et seq.) By submitting a bid to this solicitation conducted under the Alternative Protest Pilot Project procedures, Bidder agrees that all protests of the proposed award be resolved by binding arbitration. Alternative Protest Pilot Project Procedures (California Code of Regulations, Title 1, Division 2, Chapter 5) are included in this solicitation, Exhibit V.

Further information can be found at the following website:

<http://www.oah.dgs.ca.gov/Laws/bidprotestReqs.htm#1400>

During the period of protest of award any participating bidder may protest the proposed award on the following grounds:

1. For major information technology acquisitions – that there was a violation of the solicitation procedure(s) and that the protesting bidder's bid should have been selected; or
2. For any other acquisition – that the protesting bidder's bid or proposal should have been selected in accordance with the selection criteria in the solicitation document.

Submit Notices of Intent to Protest to the Coordinator at:

Alternative Protest Pilot Project Coordinator  
Department of General Services  
Procurement Division  
707 3rd Street  
West Sacramento, CA 95605  
Voice (916) 375-4587  
Fax (916) 375-4611

Within seven (7) working days after the last day to submit a Notice of Intent to Protest, a protesting bidder must submit a signed, written detailed statement of protest, filing fee and deposit, as applicable, to the Coordinator. Untimely submission of the written detailed statement of protest waives bidder's right to protest. A written notice will be sent to all bidders who submit a final bid.

A written Notice of Intent to Protest the proposed award of this solicitation must be received (facsimile acceptable) by the Coordinator before the close of business on the first day following public posting. Failure to submit a timely, written Notice of Intent to Protest waives bidder's right to file a protest.

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Frivolous protest bond requirement: bond amount for this Alternative Protest Pilot Project shall be ten percent **(10%)** of the estimated contract value. See California Code of Regulations, Title 1, Section 1418.

### 2.5.2 News Releases

News releases or any publications relating to a contract resulting from this RFP shall be made only with **prior written approval** of the Procurement Official listed in Section 1, Introduction and Overview.

### 2.5.3 Disposition of Proposals

All materials submitted in response to this RFP upon submission are the property of the State of California and will be returned only at the State's option and at the Bidder's expense. At a minimum, the Master Copy of the Final Proposal shall be retained for official files and will become a public record after the Notification of Intent to Award as specified in the Key Action Dates specified in Section 1, Introduction and Overview. However, materials the State considers in its sole opinion to be confidential information (such as confidential financial information submitted to show bidder responsibility) will be returned upon the request of the Bidder.

### 2.5.4 Competitive Bidding and Proposal Responsiveness

Competitive bidding is not defined in any single statute but is more in the nature of a compendium of numerous court decisions. From such court decisions, the following rules have evolved, among others:

1. The RFP must provide a basis for full and fair competitive bidding among Bidders on a common standard, free of restrictions that would tend to stifle competition.
2. The State may modify the RFP, prior to the date fixed for Contract Award, by issuance of an addendum to all parties who are Bidders.
3. To be considered a valid proposal, the proposal must respond and conform to the invitation, including all the documents, which are incorporated therein. A proposal which does not literally comply may be rejected.
4. In order for a bid to be rejected for a deviation, the deviation must be deemed to be of a material nature.
5. State agencies usually have the express or implied right to reject any and all proposals in the best interests of the State. Proposals cannot, however, be selectively rejected without cause.
6. Proposals cannot be changed after the time designated for receipt and opening thereof. No negotiation as to the scope of the work, amount to be paid or contractual terms is permitted. However, this does not

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preclude the State from clarifying the Bidder's intent by asking questions and considering the answers.

7. A competitive proposal, once opened and declared, is in the nature of an irrevocable option and a contract right of which the public agency cannot be deprived without its consent, unless the requirements for rescission are present. All proposals become public documents.
8. Proposals cannot be accepted "in part," unless the invitation specifically permits such an award.
9. Contracts entered into through the competitive bidding process cannot later be amended, unless the RFP includes a provision, to be incorporated in the contract awarded, providing for such amendment.

Since competitive procurement became the required method for securing certain IT goods or services, the State has received a number of proposals which were deemed to be non-responsive to the requirements of an RFP or which could not be considered as valid proposals within the competitive bidding procedures. Non-responsive proposals or proposals which contain qualification statements or conditions, must be rejected. Many of the causes for rejection arise from either an incomplete understanding of the competitive bidding process or administrative oversight on the part of the Bidders. The following examples are illustrative of more common causes for rejection of proposals. These examples are listed solely to assist potential Bidders in submission of responsive proposals and should not be considered an exhaustive list of all potential reasons for rejection.

1. A proposal stated, "The prices stated within are for your information only and are subject to change."
2. A proposal stated, "This proposal shall expire ninety (90) days from this date unless extended in writing by the \_\_\_\_\_ Company." (In this instance award was scheduled to be approximately 90 days after the proposal submittal date.)
3. A proposal for lease of IT equipment contained lease plans of a duration shorter than that, which had been requested in the RFP.
4. A personal services contract stated, "\_\_\_\_\_, in its judgment, believes that the schedules set by the State are extremely optimistic and probably unobtainable. Nevertheless, \_\_\_\_\_ will exercise its best efforts..."
5. A proposal stated, "This proposal is not intended to be of a contractual nature."
6. A proposal contained the notation "prices are subject to change without notice."
7. A proposal was received for the purchase of IT equipment with unacceptable modifications to the Purchase Contract.



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8. A proposal for lease of IT equipment contained lease plans of a duration longer than that which had been requested in the RFP with no provision for earlier termination of the contract.
9. A proposal for lease of IT equipment stated, "...this proposal is preliminary only and the order, when issued, shall constitute the only legally binding commitment of the parties."
10. A proposal was delivered to the wrong office.
11. A proposal was delivered after the date and time specified in the RFP.
12. An RFP required the delivery of a performance bond covering 50 percent of the proposed contract amount. The proposal offered a performance bond to cover "x" dollars which was less than the required 50 percent of the proposed contract amount.
13. A proposal did not meet the contract goal for Disabled Veterans Business Enterprise (DVBE) participation and did not follow the steps required by the proposal to achieve a "good faith effort".
14. A proposal appeared to meet the contract goal for DVBE participation with the dollars submitted, but the Contractor had miscalculated the proposal costs. When these corrections were made by the State, the Contractor's price had increased and the dollars committed for DVBE participation no longer met the goal. The Contractor had not followed the steps to achieve a "good faith effort" maintenance and operations. The Past Performance Reference form shall include the Contractor staff participating in these projects, at what capacity or role, and participation dates. (See Exhibit O, Past Performance Reference form.)

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### **3. CURRENT SYSTEM**

The current CWS/CMS was originally implemented in 1997, with continued development through final rollout in 1998. Since that time, the State has been in the maintenance and operations (M&O) phase of the project, with only minimal new development activity occurring concurrently.

The current system described below is being replaced with the NS Project. The current CWS/CMS is considered at end of life and will remain as a legacy system during the NS development period of approximately five years. No new major functionality will be added to the existing system except that needed to meet current statutory mandates and existing critical business requirements.

#### ***3.1 Hosting***

The application is hosted by DTS in Sacramento.

#### ***3.2 System Size and Complexity***

- Approximately 19,000 users at 429 sites statewide distributed among the 58 counties and CDSS offices.
- Approximately 15,000 of the total users are actually logged in at some point during each month.
- CWS/CMS can have up to 10,000 concurrent users.
- Approximately 284,000 transactions are processed per workday.
- Approximately 136,000 active cases and 34,000 active referrals exist in the system.
- Approximately 120,500 bytes are transferred from the host to the client workstation during each case open transaction.
- Production database of approximately 1,200 gigabytes. (1.2 terabytes)
- Approximately 6 interim releases issued annually
- Approximately 150 system change requests annually
- Approximately 1,600 data recovery requests to correct cases that users have updated with erroneous or invalid data
- Approximately 4,500 business rules
- Approximately 500 screens
- Approximately 260,000 Customer Information Control System (CICS) transactions daily
- Current M&O vendor: IBM

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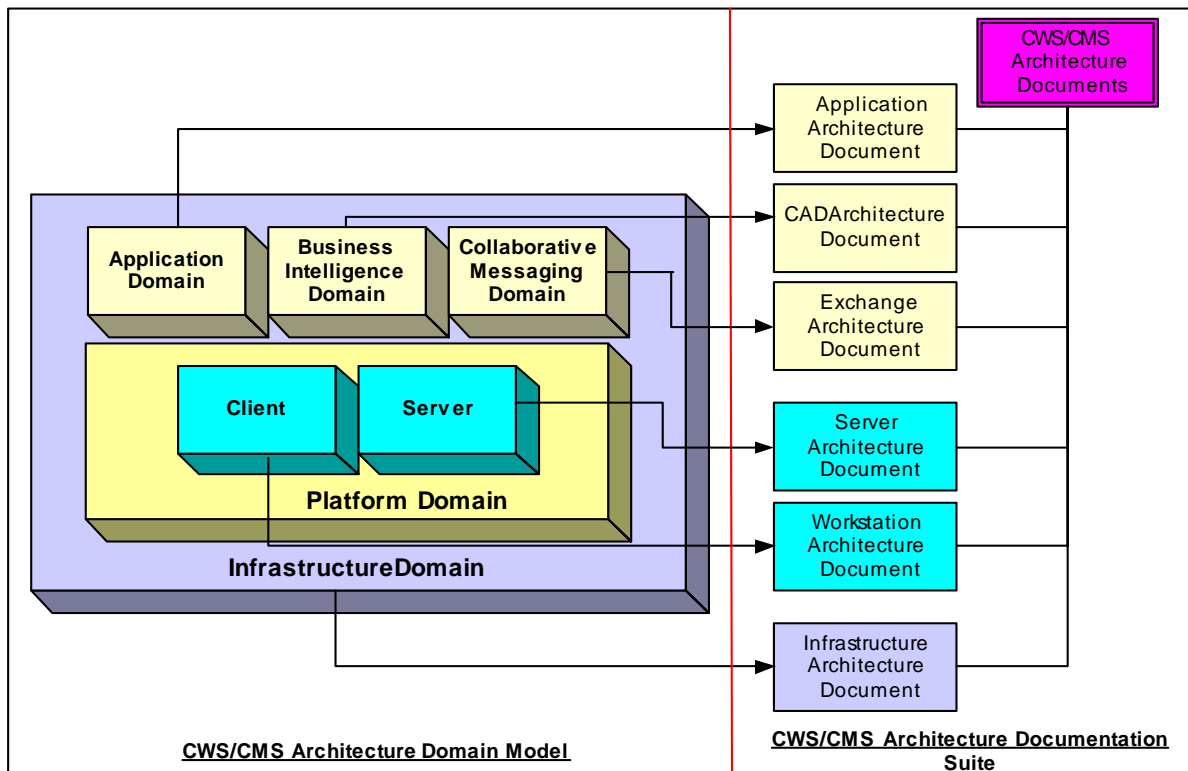
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### 3.3 Current Technical Architecture

The current CWS/CMS system technical architecture is divided into the following six domains:

- Application Architecture Domain
- Business Intelligence Architecture Domain
- Collaborative Messaging Architecture Domain
- Client Platform Architecture Domain
- Server Platform Architecture Domain
- Infrastructure Architecture Domain

Figure 3 - 1. CWS/CMS Architecture Domain Model and Architecture Documentation

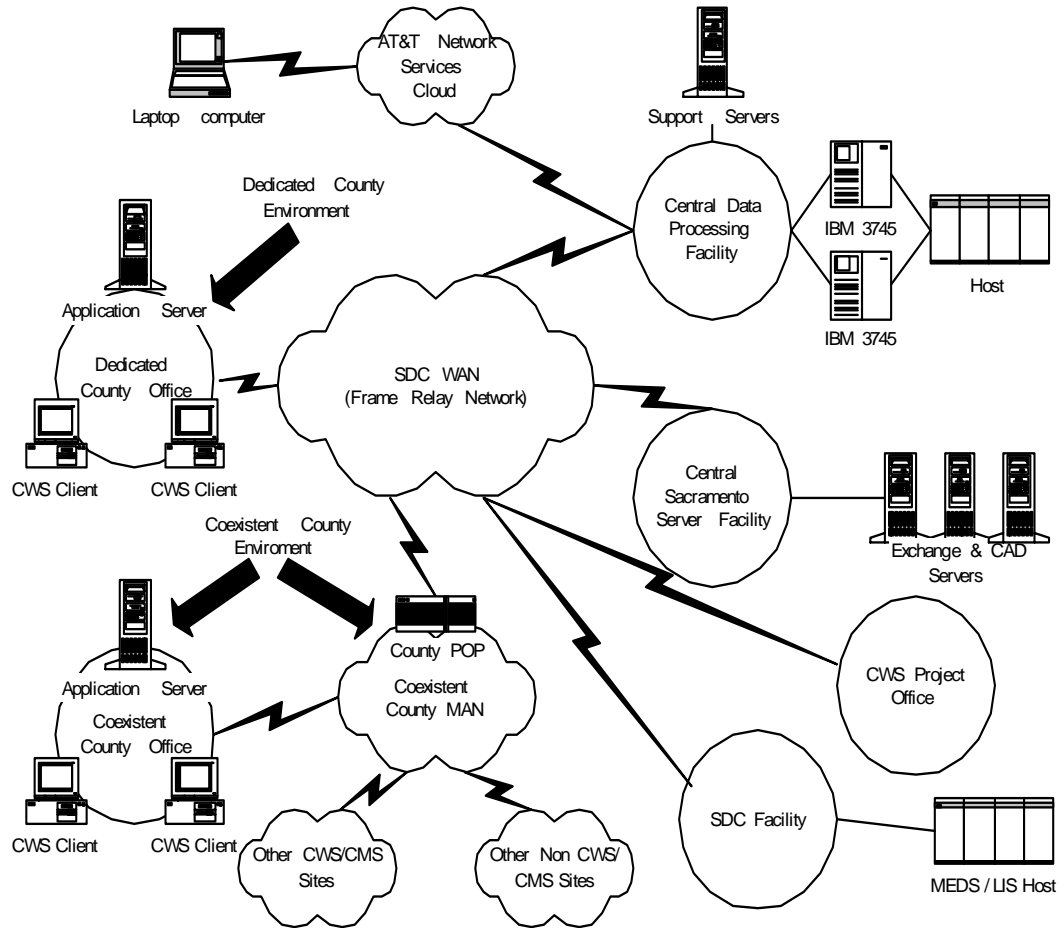


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Figure 3 - 2. Overview of the CWS/CMS Networks Operating Environment



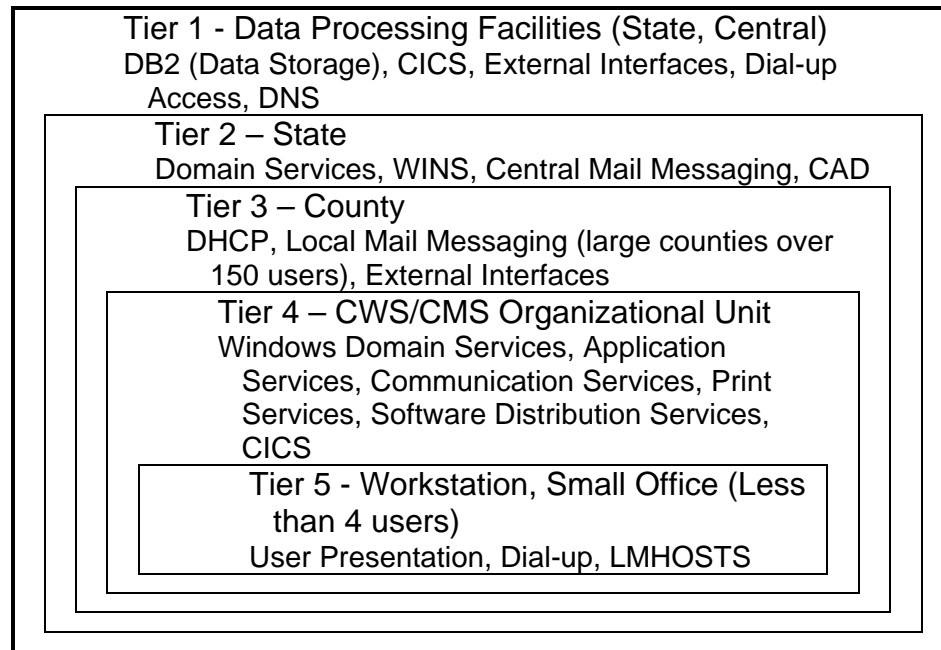
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**Figure 3 - 3. CWS/CMS Service Logical Framework Model**



The Logical Framework Model is designed to illustrate the service delivery methodology required to provide CWS/CMS application services to offices ranging in size from 1 to 1000 users.

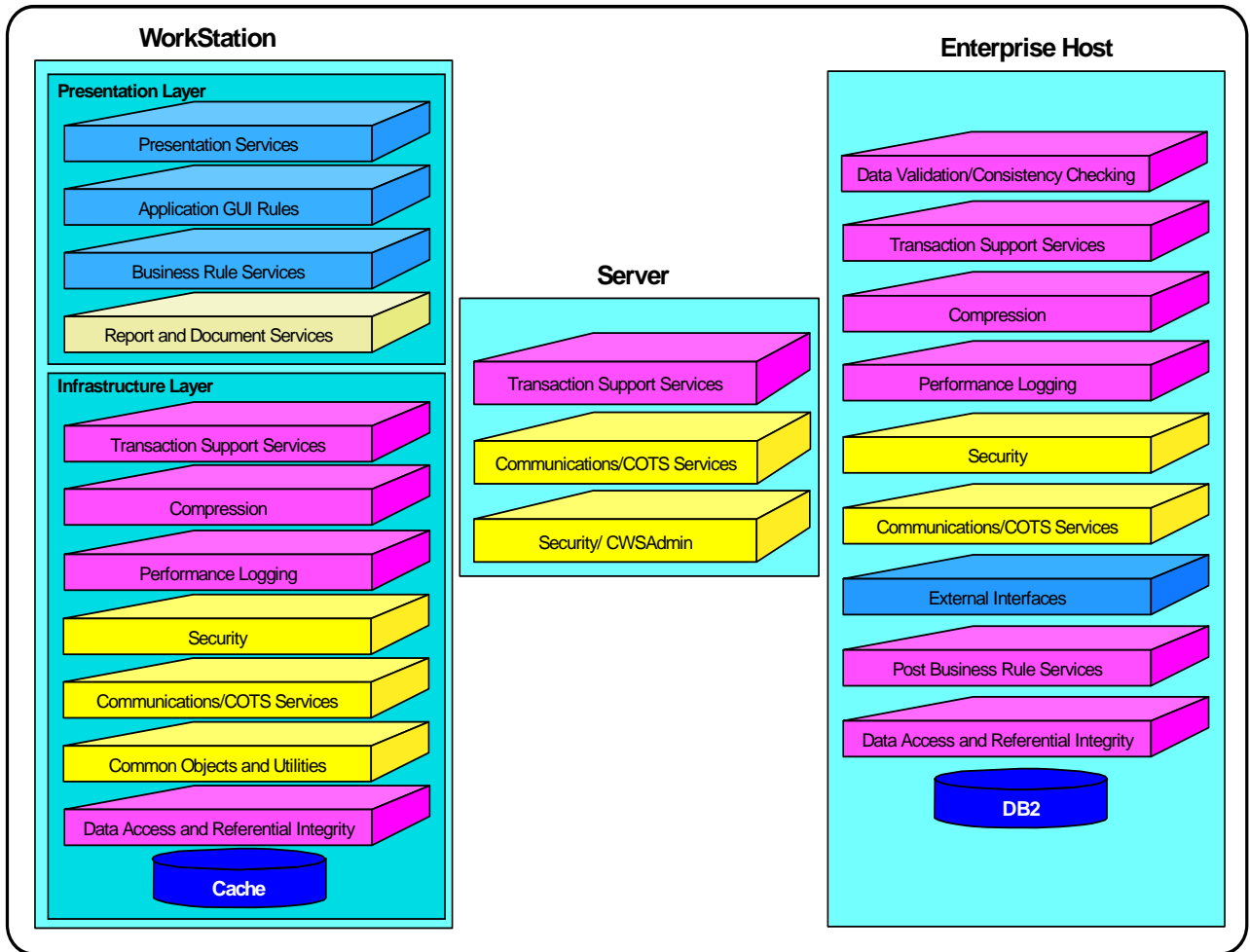
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Figure 3 - 4. CWS/CMS Tiers and Components

### Application Components In Each Tier



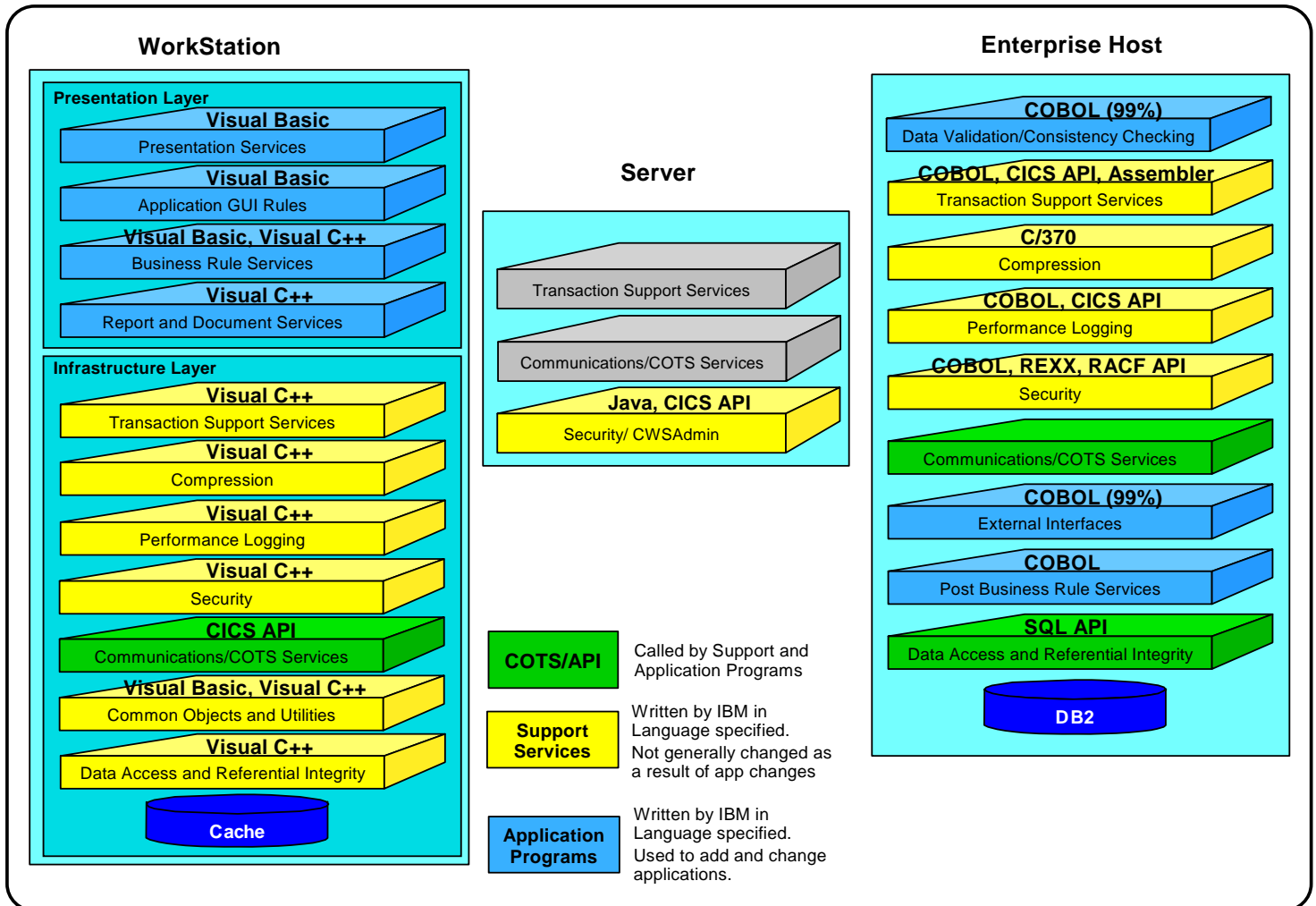
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Figure 3 - 5. CWS/CMS Programming Languages in Each Tier

### Programming Languages In Each Tier



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### **4. PROPOSED SYSTEM**

#### ***4.1 Web-based Service Oriented Architecture***

The State will implement on web-based application server suites that will be the basic infrastructure for deploying the next generation application functionality in a service-oriented architecture (SOA). All redeveloped functionality and four unfulfilled Statewide Automated Child Welfare Information System (SACWIS) technical requirements (see Section 4.4) developed in the new environment will be available to the social worker through a web browser.

#### ***4.2 Performance Requirements***

The NS must allow State and county workers to process and access information about clients. A hardware platform supporting the NS should deliver high reliability and availability. Additional requirements include:

- The NS must provide tools that allow changes to be made to improve system performance.
- The NS must provide the ability to collect, as needed, technical performance metrics based on a variety of technical parameters.
- The NS must permit online transactions while batch processing is occurring.
- A copy of the production database should be maintained to guard against disk drive crashes.
- Replacement hardware must be available within 24 hours.
- The NS database must have the ability to journal (transaction logging) to facilitate recovery after power interruptions or other processing abnormalities.
- The NS must provide the tools to monitor, in a single user interface, all aspects of system performance as required for capacity planning.

#### ***4.3 Security Requirements***

The NS must have comprehensive application security along with a robust security infrastructure. The NS base application will meet the following security requirements:

- Provide the ability to maintain user access rights to the system.
- Provide the ability to maintain role-based access.
- Provide the ability to maintain access to functional processes such as batch uploads.
- Provide an audit trail for all changes to database information.
- Provide the ability to maintain passwords.
- Provide the ability to prevent unauthorized users from accessing the system.
- Provide an audit trail for all changes to user access rights.

The NS base security infrastructure will meet the following requirements:

- Provide a secure method of transmitting electronic information.
- Provide security of all information that is maintained by the system.
- Prevent authentication data from being easily obtained by unauthorized persons.



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- Provide security for all information assets utilized for Disaster Recovery and Operational Recovery plans.

### **4.4 Unfulfilled SACWIS Functionality**

The NS must fulfill the following previously un-met SACWIS functions:

- Adoptions Case Management
- Automated Title IV-E Eligibility Determination
- Interfaces to Title IV-A (CalWORKS), Title IV-D (Child Support), IV-E (Foster Care) and Title XIX (Medi-Cal) Systems
- Financial Management for Out-of-Home Care and Adoptions Assistance Payments

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### **5. ADMINISTRATIVE REQUIREMENTS**

This section describes the proposal format, content and submission sequence. Format instructions must be adhered to, all requirements and questions in the RFP must be responded to, and all requested data must be supplied. The Bidder must examine the RFP with care and understand the conditions to which it must comply and the conditions affecting the award of the contract.

If omissions, discrepancies or errors are identified in the RFP by a Bidder prior to the date of Final Proposal submission, the Bidder shall notify the procurement official identified in Section 1.7, Procurement Division Official. The Bidder should request clarification of the RFP. If the requirements are confusing, misleading, or the instructions were unclear, clarification will be provided as addenda to all participating Bidders. It is the Bidder's responsibility to ensure its proposal is submitted in a manner that enables the evaluation team to easily locate all response descriptions and exhibits.

#### **5.1 Response to Requirements**

##### **5.1.1 Cover Letter**

A cover letter on company letterhead signed by an individual authorized to contractually bind the bidding firm must be submitted with the Final Proposal. Proposals without a signed cover letter may be rejected. The cover letter must identify the Bidder's acceptance of the terms and conditions of the model contract language.

Proposal Item 1: Bidders' Draft and Final Proposal submissions must contain a signed Cover Letter.

Proposal Item 2: Bidders' Draft and Final Proposal submissions must contain a completed and signed Letter of Financial Interest Disclosure, Exhibit D.

##### **5.1.2 Table of Contents**

Proposal Item 3: Bidder's Draft and Final Proposal submissions must contain a Table of Contents.

##### **5.1.3 Proposal Response Cross Reference Checklist**

Bidders are required to submit a completed Table 44 – Proposal Response Cross Reference Checklist found in Section 8, Proposal Format and Content.

Proposal Item 4: Bidder's Draft and Final Proposal submissions must contain a completed Table 4 – Proposal Response Cross Reference Checklist (found in Section 8.3)

#### **5.2 Business Qualifications**

##### **5.2.1 Executive Summary**

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Bidders are required to submit a document outlining their understanding of the services being requested in this RFP and an overview of their anticipated approach to satisfying the State's requirements. The summary must lay out the needs and challenges facing the Project, as understood by the Bidder. This summary should not exceed ten (10) pages.

*Proposal Item 5: Bidder's Draft and Final Proposal submissions must contain an Executive Summary.*

### **5.2.2 Certification to Do Business in the State of California**

The Bidder must be certified with the California Secretary of State to do business in California. If the Bidder does not currently have this certification, the firm must be certified before the contract award can be made. If this is the case, the Bidder must provide information to support the status of their application to be certified to do business in the State of California in the Draft Proposal.

*Proposal Item 6: Bidders' Proposal submission must contain copy of their Certificate to do Business in the State of California. If certification has not been received prior to Draft Proposal due date, a copy of the Bidder's application and statement of the application status must be included with the Draft Proposal.*

### **5.2.3 Bidder Responsibility as Prime Contractor**

A Bidder submitting a proposal that results in the award of a contract will be considered the prime contractor. The Bidder must accept full responsibility for coordinating and controlling all aspects of the Contract, including support or activities to be performed by any sub and/or secondary contractors. The Bidder, acting as prime contractor, must be the sole point of contact with the State relative to contract performance. If any proposal includes equipment or services provided by other firms, the Bidder must be considered as prime contractor for the delivery and maintenance of the entire business solution and must ensure that the other firms provide the equipment or services that are a part of this solution.

In all contractual matters, the State will consider the Bidder, acting as prime contractor, to be the sole point of contact. There will be no assignment of responsibility to a third party without prior written approval of the DGS.

*Proposal Item 7: Bidders' Draft and Final proposals must contain a statement accepting full responsibility as the prime contractor, as is described above for coordinating and controlling all aspects of the Contract and any subcontractors.*

### **5.2.4 Project Team Organization**

The Bidder agrees to provide information regarding references and staff capability for Key Personnel. The Bidder agrees that the State reserves the right to contact references to validate the proposed staff's experience and

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capabilities. All referenced work used to meet the requirements must have been performed within the past **ten (10) years**.

When assigning staff to the work for this RFP, the Contractor must respond with minimum years for a staffing requirement based on Full Time Equivalent (FTE. For example, if a proposed resource worked for one (1) year on a project at 50% of the time, six (6) months of experience would be accrued for the project. No more than 100% will be accrued for any given time period (i.e., a proposed resource cannot be credited for 75% on one project and 50% on another project for the same time period). The FTE of six (6) full calendar months and just short of nine (9) full calendar months would be ½ year.

NOTE: If only month/year or year only is provided (i.e., if day is NOT provided), the State will evaluate based on the last day of the starting month or year to the first day of the ending month or year.

The Bidder agrees that the State has the right to approve or reject replacement project team members. In response to this section of the RFP, the Bidder shall provide the following resume information for each Key Personnel by using the Staff Resume Format (Exhibit P).

a. Required Resumes

Resumes shall be included for all personnel proposed for any task or deliverable or any part of a task or deliverable, including any proposed subcontractor staff.

Contractor Key Personnel to be dedicated full time for this project include:

- Senior Project Manager
- Project Manager
- Technical Lead
- Fiscal/Administrative Analyst

b. Bidder Project Team Changes

Before the start of the Contract, the State recognizes that an unusual circumstance may result in the change of a proposed Key Personnel staff member identified in the Bidder's proposal. When the Contract is executed, the Bidder may substitute staff personnel who are different from those offered at the time of bid submission ONLY if such substitute personnel have equivalent skills and experience. The Bidder must submit in writing the reason for the change and provide a resume and references for the substitute personnel. The State will either approve or reject the substitution. If the substitution is rejected and a qualified substitute is not provided, the Contractor will be in default under the terms of the contracts.

After the start of the project, the State recognizes that a resignation or other such event may cause Key Personnel not to be available to the Bidder. If this should occur, the Bidder must agree that the State has

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the right to approve or reject replacement project team members assigned by the Bidder to this project. The Bidder will not be allowed extra time or money to replace personnel. The replacement project team member must possess the same or a higher level of technical expertise and experience than the original staff person leaving the project. In support of the Bidder's compliance with this provision, the Bidder must notify the State Contract Manager of personnel vacancies and provide resumes of replacement staff within fifteen (15) State business days of notice that the Key Personnel will no longer be available.

### 5.2.5 Management of Subcontractors

If a Bidder will be using subcontractors, the Bidder must describe their past experience of managing subcontractors within the past five years including the number of past experiences, the time period of each experience, and whether they managed a single subcontractor or multiple subcontractors. This should include a description of a project organization structure describing their internal project management and communications with subcontractors. Additionally, the Bidder must describe the type of contracts/agreements they utilized with subcontractors to ensure effective performance. This description should describe subcontractor responsibilities, requirements for reporting status to the Bidder, task milestones and division of responsibility.

*Proposal Item 8: Bidders' Draft and Final Proposals must contain: A complete description of how the Bidder has managed subcontractors in the past.*

### 5.2.6 Bidder's Identification of Subcontractors

If a Bidder will be using subcontractors, the proposal must identify the following:

1. The firms and/or individuals proposed as subcontractors
2. The proposed project subcontractor staff; and,
3. The roles and/or activities to be performed by the subcontractors or their personnel.

*Proposal Item 9: Bidders' Draft and Final proposals must describe the Bidder's intent to use subcontractors in fulfillment of the project requirements and include the specific subcontractor information listed in 1, 2 and 3 above.*

*Proposal Item 10: Bidders' Draft and Final proposals must contain a description of the Bidder's procedures for managing subcontractors involved in the project, along with Bidder/subcontractor reporting relationships.*

### 5.2.7 Notification of Award to Subcontractor

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DGS Procurement Division, upon contract award to a Bidder, will notify all subcontractors listed in Proposal Item #9 above as to their participation in the Contract. Notification to subcontractor(s) by the Bidder, if the Bidder intends to use subcontractor(s), must be made immediately after an award is announced by the State.

*Proposal Item 11: Bidder's Draft and Final proposals must contain a statement agreeing to provide notification to subcontractors including DVBE contractors, immediately after an award is announced by the State.*

### 5.2.8 Payee Data Record (STD.204)

A completed Payee Data Record (Exhibit G) form must be returned with the Draft and Final Proposals with original signatures. Refer to the following website: <http://www.osp.dgs.ca.gov/default.htm>

*Proposal Item 12: Bidders' Draft and Final Proposal submission must contain a fully completed STD 204 – Payee Data Record, with original signatures.*

### 5.2.9 Performance Bond

Notwithstanding Section 2.2.7 of this RFP that states "Each agency reserves the right to require a performance bond", the State of California will not require a performance bond for the contract resulting from award to the winning Bidder for the SOW in this RFP.

## 5.3 Bidder Responsibility

Prior to award of the contract, the State must be assured that the Bidder selected has all of the resources to successfully perform under the contract. If, during the evaluation process, the State is unable to assure itself of the Bidder's ability to perform under the contract if awarded, the State has the option of requesting from the Bidder any information that the State deems necessary to determine the Bidder's responsibility. If such information is required, the Bidder will be so notified and will be permitted five (5) State business days to submit the information requested. Acceptable types of financial resource information include annual reports and currently audited balance sheets for the firm that is bidding.

### 5.3.1 Insurance Requirements

The Bidder must maintain in force the provisions of Section 3700 of the California Labor Code, which requires every employer:

- To be insured against liability for workers' compensation; or
- To undertake self-insurance in accordance with the provisions of that Code, and comply with such provisions before commencing with the performance of work for this Contract.

*Proposal Item 13: The Bidder draft and final bid shall contain Exhibit H – Workers' Compensation Certification with the Proposal in order to furnish the State satisfactory evidence thereof and at any time the State may so request.*

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*PROPOSALS SUBMITTED WITHOUT ONE OR THE OTHER OF THESE DOCUMENTS MAY BE CONSIDERED NON-RESPONSIVE, AND THE PROPOSAL MAY BE REJECTED.*

### **5.3.2 Non-Discrimination Compliance Statement**

The Bidder shall include the non-discrimination compliance provisions of this clause in all subcontracts to perform work under the Contract. During the performance of this Contract, the Bidder and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (e.g., cancer), age, marital status, sexual orientation, age, political affiliation or opinion, Vietnam Veteran status or denial of family care leave, serious health condition leave or pregnancy disability leave. The Bidder and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Bidder and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated there California Code of Regulations, Title 2, Section 7 285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Bidder and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

*Proposal Item 14: The Bidder must submit a completed Non-Discrimination Compliance Statement (Exhibit I) with the submission of its Draft and Final Proposal submissions.*

### **5.3.3 State of California's Disabled Veterans Business Enterprise (DVBE) Participation and Incentive Programs**

#### **5.3.3.1 DVBE Program Requirement**

The Bidder must fully comply with State of California DVBE Participation Program requirements. Refer to the DVBE Resource Packet and DVBE participation requirements documentation contained in the section titled "DVBE Participation Program" on the DGS Small Business and DVBE website <http://www.pd.dgs.ca.gov/smbus>. The Office of Small Business and Disabled Veteran Business Enterprise (DVBE) Certification offers program information and may be reached at:

Small Business and DVBE Certification  
707 Third Street, 1<sup>st</sup> Floor, Room 400  
West Sacramento, CA 95605

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Homepage: <http://www.pd.dgs.ca.gov/smbus>

24-hour information and document request system: (916) 322-5060

Receptionist: (916) 375-4940 Fax: (916) 375-4950

For this procurement, the State has a DVBE goal of three percent (3%) of the total contract dollar value as listed for each contract.

**NOTE: If the Bidder Declaration (GSPD-05-105) shows participation of less than three percent (3%), a Good Faith Effort must be documented.**

A copy of Std. 840 Documentation of Disabled Veteran Business Enterprise Program Requirements and GSPD-05-105 Bidder Declaration must be included in Volume 1 in the Draft and Final Proposals.

Failure to comply with the DVBE participation requirement may cause your bid to be considered non-responsive and ineligible for Contract award. To meet the DVBE participation requirement the Bidder must do at least one of the following: A) Meet the Contract goal of three (3) percent of the total Contract dollar value; B) Provide documentation as prescribed to show that the Bidder has made a "Good Faith Effort"; or C) Provide evidence that the Bidder has an approved DVBE Utilization Plan with DGS Department of General Services, Procurement Division.

**NOTE: From <http://www.pd.dgs.ca.gov/smbus>, in Option B, Good Faith Effort, Step 3, advertisement(s) must be published at least 14 days prior to the Final Proposal submission date for a period of fourteen (14) days. It is acceptable to advertise in just one trade or DVBE paper if it fulfills both trade and focus requirements as defined in California Code of Regulations, Title 2, Section 1896.61(k), in which case one (1) ad is acceptable. Please see the DVBE Resource Packet for a list of acceptable publications.**

If the Bidder Declaration (GSPD-05-105) claims to meet the DVBE goal, the Bidder shall identify a percentage figure of three percent (3%) or more representing the rate of participation rather than an actual dollar figure. No actual dollar figures should appear on the Bidder Declaration. IF THE DRAFT PROPOSAL IS SUBMITTED CONTAINING ANY DOLLAR FIGURES, THE BIDDER'S DRAFT PROPOSAL SHALL BE REJECTED AND THE BIDDER PROHIBITED FROM FURTHER PARTICIPATION IN THIS PROCUREMENT.

Bidder must agree to provide notification to DVBE Subcontractors immediately after an award is announced by the State.

*Proposal Item 15: Bidder's Draft and Final proposals must contain a statement agreeing to provide notification to subcontractors,*



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*including DVBE contractors, immediately after an award is announced by the State.*

### 5.3.3.2 The DVBE Incentive Program

In accordance with Section 999.5(a) of the Military and Veterans Code, an incentive will be given to bidders who provide Disabled Veteran Business Enterprise (DVBE) participation. For contract award evaluation purposes only, the State shall apply an incentive to such proposals (GSPD-05-105). The incentive amount for awards is based on the amount of DVBE participation obtained. The incentive is only given to those Bidders who are responsive to the DVBE Program Requirement and propose DVBE participation in the resulting contract. See Section 9, Proposal Evaluation, for details on application of the incentive during proposal evaluation.

If the Bidder proposes to use a DVBE firm(s) to meet, exceed or partially meet the DVBE goal, the Bidder must complete the Bidder Declaration (GSPD-05-105) to be eligible to receive this DVBE incentive benefit. This form allows the Bidder to identify all subcontractors and indicate whether the Bidder or any subcontractors are a DVBE and for DVBE subcontractors, their proposed contract function and the corresponding percentage of participation.

*Proposal Item 15.1: Bidder's Draft and Final Proposals must contain a copy of its DVBE participation forms per instructions listed above and in Exhibit J. Inclusion of cost data in the Draft Proposal or in Volume 1 – Administrative Responses of the Final Bid, may deem the bid non-responsive.*

### 5.3.4 **TACPA, LAMBRA and EZA Preferences**

The Target Area Contract Preference Act (TACPA), Local Agency Military Base Recovery Act (LAMBRA), and Enterprise Zone Act (EZA) preferences will be granted for this procurement. Bidders wishing to take advantage of these preferences will need to review the following websites and submit the appropriate response with the Draft and Final Proposals:

<http://www.pd.dgs.ca.gov/edip/tacpa.htm>

<http://www.pd.dgs.ca.gov/edip/eza.htm>

<http://www.pd.dgs.ca.gov/edip/lambra.htm>

<http://www.documents.dgs.ca.gov/pd/modellang/mfgsum-1001.pdf>

<http://www.documents.dgs.ca.gov/pd/edip/bidsum1001.pdf>

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*Proposal Item 16: Bidders desiring to claim the TACPA preference must submit a fully executed copy of the appropriate forms (Exhibit K) with their Draft and Final Proposals.*

*Proposal Item 17: Bidders desiring to claim the LAMBRA preference must submit a fully executed copy of the appropriate forms (Exhibit L) with their Draft and Final Proposals.*

*Proposal Item 18: Bidders desiring to claim the EZA preference must submit a fully executed copy of the appropriate forms (Exhibit M) with their Draft and Final Proposals.*

### **5.3.5 State of California's Small Business Regulations and Preferences**

#### **5.3.5.1 Small Business Regulations**

The Small Business Regulations, located in the California Code of Regulations (Title 2, Division 2, Chapter 3, Subchapter 8, Section 1896 et seq.) concerning the applications and calculation of the small business preference, small business certification, responsibilities of small business, department certification, and appeals are revised, effective 9/09/04. The new regulations can be viewed at (<http://www.pd.dgs.ca.gov/smbus>). Access the regulations by clicking on "Small Business Regulations" in the right sidebar. For those without Internet access, a copy of the regulations can be obtained by calling the Office of Small Business and DVBE Services at (916) 375-4940.

#### **5.3.5.2 Non-Small Business Subcontractor Preference**

A five percent (5%) bid preference is available to a non-small business claiming twenty-five percent (25%) California certified small business subcontractor participation.

#### **5.3.5.3 Small Business Nonprofit Veteran Service Agencies (SB/NVSA)**

SB/NVSA prime bidders meeting requirements specified in the Military and Veterans Code Section 999.50 et seq. and obtaining a California certification as a small business are eligible for the five percent (5%) small business preference.

#### **5.3.5.4 Attachment with Bid Required if Claiming the Small Business Preference**

All bidders must complete and include the Bidder Declaration form GSPD-05-105. If claiming the non-small business subcontractor preference, the form must list all of the California certified small businesses with which you commit to subcontract in an amount of at least twenty-five percent (25%) of the net bid price. All certified small businesses must perform a "commercially useful function" in

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the performance of the contract as defined in Government Code Section 14837(d)(4).

### 5.3.5.5 Small Business Certification

Bidders claiming the Small Business Preference must be certificated by California as a small business or must commit to subcontract at least 25 percent (25%) of the net bid price with one or more California certified small businesses. Completed certification applications and required support documents must be submitted to the Office of Small Business and DVBE Services (OSDS) no later than 5:00 p.m. on the bid due date, and the OSDS must be able to approve the application as submitted. Small Business Nonprofit Veteran Service Agencies (SB/NVSA) claiming the Small Business Preference must possess certification by California prior to the day and time bids are due.

Questions regarding certification should be directed to the OSDS at (916) 375-4940.

### 5.3.5.6 Commercially Useful Function

If the Bidder is a certified California small business, or is claiming to use subcontractors and/or using certified California small businesses, in accordance with Assembly Bill 669, the Bidder must address specific aspects of the Legislation that require subcontractors and/or certified small businesses to perform a commercially useful function as defined by Government Code Section 14837, 14838.6, 14839, 14842, and 14842.5. Therefore, the company must provide written, signed documentation that:

- The company is responsible for the execution of a distinct element of the work of the Contract.
- The company carries out its obligation by actually performing, managing or supervising the work involved.
- The company performs work that is normal for your business services and functions.
- The company is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A Bidder, subcontractor, or supplier will not be considered to perform a commercially useful function if the Bidder's, subcontractor's, or supplier's role is limited to that of an extra participant in the transaction, contract, or project through, which funds are passed in order to obtain the appearance of small business or micro business participation.

At the State's option during the proposal evaluation process, the State may request the bidders to submit additional written clarifying

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information. Failure to submit the requested written information as specified may be grounds for proposal rejection.

Proposal Item 19: *Bidders' Draft and Final Proposals must contain:*

- *Completed and signed Exhibit N indicating whether or not they are claiming any type of Small Business Preference;*
- *If the Bidder is claiming 25 percent or more of the bid work will be subcontracted out to Small Businesses, the complete subcontractor information requested; and*
- *If the Bidder is claiming any type of Small Business Preference, written documentation that the Bidder will comply with the "Commercially Useful Function Requirements" as detailed above.*

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### 6. **FUNCTIONAL AND TECHNICAL REQUIREMENTS**

#### 6.1 **Statement of Work/Contract**

The contract for this SOW includes the content of this SOW and the following two (2) documents:

- CWS/CMS NS PMSS Contract Provisions, and
- Personal Services Special Provisions (1/23/03).

*Proposal Item 20: Bidders' Draft Proposal and Final Proposals must contain a Special DGS Form 213 with Alternative Protest Pilot language (see Exhibit A), completed and signed.*

**NOTE TO BIDDERS: Do not include any costs on the DGS Form 213.**

#### 6.2 **Past Performance References**

The purpose of the Past Performance Reference requirement is to provide the State the ability to verify the claims made in the proposal by the Bidder and to assess the Bidder's prior record and team experience in providing similar or relevant services to other organizations. Bidders are advised that this is a critical portion of the evaluation and selection process. Each Past Performance Reference submitted shall be for Bidder work completed within the last **ten years**. One Past Performance Reference must be for a large-scale software integration project with a total one-time cost of at least \$50 million.

The State provides Bidders with one copy of the Past Performance Reference form, Exhibit O, to duplicate and distribute. For the Draft Proposal, the Bidder must include a completed Section I of the Past Performance Reference for each intended reference. For the Final Proposal, the Bidder is responsible for distributing Sections I and II of the Past Performance Reference to each customer reference, obtaining completed and signed responses from the customer references, and submitting the completed and signed responses.

It is the Bidder's responsibility to ensure that each customer reference is aware that they will be receiving a Past Performance Reference form for prior work and that the customer reference understands the process for completing and signing the form. It is also the Bidder's responsibility to notify the customer reference that the State will be contacting the primary and/or secondary customer contact to verify the customer responses on the Past Performance Reference.

Three (3) references must be submitted for this requirement. However, the Bidder may submit up to five (5) references. All references will be evaluated and the three (3) highest scored references will be used for evaluation. All references must include the name of a primary and a secondary contact, current telephone numbers for each, customer address, current customer e-mail addresses, period of performance and brief description of the project.

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The descriptions of these projects must be detailed and comprehensive enough to permit the State to assess the similarity of those projects to the work anticipated in the Contract resulting from this procurement. The Past Performance Reference form shall include the Contractor staff participating in these projects, at what capacity or role, and participation dates.

During the evaluation and selection process, the State will make three (3) attempts to contact each customer reference by telephone to verify the information on the Past Performance Reference, during State business hours of 8:00 a.m. to 5:00 p.m. PST where contact is made (e.g. contact with an individual or a voice mail message is left). If the State is unsuccessful in contacting a minimum of three (3) of the Past Performance References, the bid may be considered non-responsive. If the evaluation team discovers any negative comments on a Past Performance Reference form or during a customer reference contact, the Bidder may be asked to provide an explanation of the situation and circumstances in writing. Bidders are advised that if such explanations are requested of and provided by the Bidder, the submitted explanations may or may not remove or mitigate the concerns of the State's evaluation team. The information contained in the Past Performance References may be used by the State in determining the suitability, acceptability or risk associated with the Bidder's proposal.

*Proposal Item 21: Bidders' Draft Proposal must contain completed Section I of the Past Performance References (Exhibit O) for each intended customer reference; Minimum of three (3) and maximum of five (5). Bidders' Final Proposal must contain a minimum of three (3) Past Performance References with Sections I and II completed and signed in accordance with requirements above.*

### **6.3 Contract Task Overview**

The Contractor will provide project management processes, tools, analysis, information and recommendations to State project and program managers who are responsible for making decisions and providing direction to project and program staff.

### **6.4 Task Groups**

This SOW consists of the following Task Groups:

- Contractor Task Reporting and Management (6.6.1)
- Project Management Support (6.6.2)
- Un-anticipated Tasks (6.6.3)

Each Task Group consists of individual tasks, e.g. Contractor Task Management and Reporting (6.6.1) is a "Task Group" and Detailed Work Plan (6.6.1.1) is a "task".

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### **6.5 Contractor Use of Best Practices and Standards**

Tasks and activities will be performed using OSI's "Best Practices" (available at [www.bestpractices.cahwnet.gov](http://www.bestpractices.cahwnet.gov)) and the Project Management Institute's Guide to the Project Management Body of Knowledge (PMBOK) Third Edition.

All task due dates are described in Table 2 – Deliverables Completion Schedule.

### **6.6 Contractor Deliverable Formats**

Unless explicitly stated otherwise, all deliverables must be provided in Microsoft Office 2002, Visio 2002 and/or Microsoft Project 2002 format in one hard copy and one electronic copy. A signed Deliverable Transmittal cover letter must accompany each deliverable. This applies to word processing documents, spreadsheets, schedules, presentations and databases. A signed Deliverable Transmittal cover letter must accompany each deliverable.

### **6.7 Task Requirements Details**

#### **6.7.1 Contractor Task Management and Reporting**

The objective of this task is to successfully implement PMSS, under the direction of the New System Project Manager, hereafter referred to as the PM, successfully by meeting the business requirements and completing project milestones, including those activities required to plan and control the scope, schedule, staffing, and budget of all services provided in this SOW.

##### **6.7.1.1 Detailed Work Plan**

The Contractor shall develop, deliver and update as needed a detailed work plan for accomplishing the tasks identified in this SOW. This plan shall include timelines, milestones, resource requirements, tasks, deliverables and deliverables acceptance criteria to perform the tasks for this SOW.

##### **6.7.1.2 Task Accomplishment Plan (TAP)**

The Contractor shall develop and deliver a Task Accomplishment Plan (TAP), by Task Group and Tasks, for the activities in this SOW through the projected contract end date. The TAP documents the planned monthly expenditures, and will be updated whenever there is a change in pricing or spending plans. See Exhibit Q.

##### **6.7.1.3 Project Management Briefings and Presentations**

The Contractor shall conduct weekly project management briefings for the PM addressing risk assessment activities, schedule, findings and corrective action planning. The Contractor shall provide the NS PM with written agendas prior to the weekly briefing followed with written results of the briefings. The Contractor shall assist in preparations for project management presentations for the NS Project Team and Stakeholders.

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### 6.7.1.4 Monthly Status Reports

The Contractor shall submit monthly written status reports to the PM in a prescribed document format that will be provided. The reports must contain specific information on each deliverable including:

- Work accomplished for each specific deliverable.
- A brief overview of the research conducted to date.
- Preliminary findings.
- Identification of risks and issues that will impede completion of the work/study.
- Recommendations regarding how to mitigate the impact of the identified risks and issues.
- Budget detail that includes three reports (Excel samples of these reports are contained in Exhibit R).
  1. A table of the current report month costs including:
    - Costs incurred by each Task Group.
    - Planned monthly cost for each Task Group from the most recently approved TAP.
    - Cumulative actual costs by Task Group through the report month.
    - Cumulative planned costs by Task Group through the report month.
    - Variance between cumulative actual and cumulative planned costs.
  2. A summary table of Task Group costs per month and fiscal year. The table must include actual and planned costs, and the calculated variance between the two.
  3. A cost summary by fiscal year comparing actual versus planned annual costs and the variance between the two. This information will be used to ensure that the total billing for each deliverable does not exceed approved amounts under the executed contract.

### 6.7.1.5 Final Report

At contract completion, the Contractor shall develop and submit a Final Report to the NS PM. The report shall detail project activities, accomplishments, lessons learned and suggestions for improving ongoing CWS/CMS NS M&O.

### 6.7.2 **Project Management Support**

The objective of this task is to provide Project Management support to the NS PM and project and program staff.



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### 6.7.2.1 New System Master Project Plan and Task Report

The Contractor shall review, validate and update the initial Master Project Plan (MPP) created by the State, including the Master Project Schedule (MPS) and plans for the following management areas, and ensure that it is consistent with the PMBOK and OSI Best Practices and integrates the processes to effectively manage project requirements, scope, time, cost, human resources, communication, project risk and procurement.

- Integration Management
- Scope Management
- Time Management
- Cost Management
- Human Resource Management
- Risk Management
- Communications Management
- Quality Management
- Procurement Management

The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.2.2 Project Management Activities and Task Report

The Contractor shall assist the NS PM with implementing and executing project activities according to the MPP in Task 6.6.2.1 and other project management techniques, processes, policies and procedures to ensure project success during the entire New System Project life cycle, while ensuring the application of commercial best practices and standards for project management activities. The Contractor shall maintain the MPS in Microsoft Project. The Contractor shall also document, track and provide assistance with the resolution of issues related to responsibilities assigned to other contractors working on the project.

The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.2.3 System Architecture Support and Task Report

The Contractor shall provide analysis, expertise and recommendations for the development and acceptance of system architecture deliverables, including input on cost and technical issues. The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.2.4 System Development Support and Task Report

The Contractor shall provide analysis, expertise and recommendations for the New System development and

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implementation and ensure that technical aspects are consistent with State requirements and business needs, including cost and technical issues. Contractor activities include:

- Review and recommendations for project management deliverables
- Review and recommendations for technical project deliverables
- Monitor technical and fiscal issues

The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.2.5 Project Process Improvement and Task Report

The Contractor shall 1) validate and verify existing project processes, 2) participate in process development activities, and 3) evaluate draft processes. The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.2.6 Current Project Documents and Task Report

The Contractor shall review and validate existing project documents, including:

- Project Charter
- Governance Plan
- Communications Plan

The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.2.7 Oversight Organizations and Control Agencies Support and Task Report

The Contractor shall assist in the development and processing of control agency documents. The Contractor shall also analyze findings from multiple oversight organizations and provide recommendations for resolution. The agencies and organizations include:

- California Department of Finance
- California Department of General Services
- Federal Administration for Children and Families, including:
  - Planning Advanced Planning Document Update
  - Implementation Advanced Planning Document
  - Implementation Advanced Planning Document Update
  - Or the equivalent of the above
- Independent Verification and Validation
- Independent Project Oversight Consultant

The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

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### 6.7.2.8 Transition Out and Task Report

The Contractor shall assist knowledge transfer to the New System maintenance and operations organization. The Contractor will document in writing reviews, activities, findings and recommendations for this task using appropriate report formats.

### 6.7.3 **Un-anticipated Tasks**

Un-anticipated Tasks will be contracted for on an as-needed basis and shall be optional throughout the term of the contract. Work for un-anticipated tasks will be assigned and agreed to in writing by the Contractor and OSI Contract Manager using a Work Authorization Form (Exhibit U). Upon completion of all work for the un-anticipated task, the Contractor shall submit the completed Work Authorization document to the OSI Contract Manager for approval. Upon approval of deliverables and completed Work Authorization Forms, the Contractor shall render invoices for total monthly charges in the month following the month for which the charges accrue (in arrears). The Contractor must submit monthly invoices within seven (7) State business days after the end of each month. Late invoice submittal may cause delay in payment. Additional payment and invoicing provisions are detailed below. The total amount for Un-anticipated Tasks shall not exceed 10 percent (10%) of the total contract.

All Un-anticipated Tasks assigned with a Work Authorization Form must be jointly approved by the State, CWS/CMS's Federal Partner the Administration for Families and Children (ACF), and the Contractor before the work can commence.

## 6.8 ***Deliverables Completion Schedule***

Table 2. Deliverables Completion Schedule (days indicated are State Work days), lists all deliverables within each task and their accompanying due date. Some of the deliverables have multiple components: 1) the deliverable itself; and 2) an ongoing requirement to update plans and to control each deliverable over the life of the contract. The State requires that all deliverables be completed and delivered to the State on or before the dates specified. If changes have been approved to specific deliverables, they shall be delivered per the contractor's revised State-approved Project Schedule and TAP. All deliverables, standards, processes, plans and applicable reference materials must be available to the State upon request. For all deliverables, the OSI reserves the right to request an in-depth written and/or oral presentation of findings and/or recommendations put forth by the Contractor.

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**Table 2. Deliverables Completion Schedule (days indicated are State Work days)**

| Task   | Deliverable   | Completion Date  |
|--|---|--|
| <b>Task Group 6.7.1 Contractor Task Management and Reporting</b> |   |  |
| 6.7.1.1  | <ul style="list-style-type: none"><li>Detailed Work Plan</li><li>Detailed Work Plan updates</li></ul> | <ul style="list-style-type: none"><li>Due 20 State business days following contract award</li><li>Updated by the 5<sup>th</sup> State business day of each month</li></ul> |
| 6.7.1.2  | <ul style="list-style-type: none"><li>Task Accomplishment Plan (TAP)</li><li>TAP Updates</li></ul>    | <ul style="list-style-type: none"><li>Due 20 State business days following contract award</li><li>Updated as changes occur</li></ul>                                       |
| 6.7.1.3  | Project Management Briefings and Presentations  | <ul style="list-style-type: none"><li>Weekly briefings</li><li>Presentations as requested by the NS PM</li></ul>   |
| 6.7.1.4  | Monthly Progress Reports  | By the 5 <sup>th</sup> State business day of each month for the previous month   |

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| Task  | Deliverable   | Completion Date   |
|---|---|---|
| 6.7.1.5   | Final Report  | End of project plus 20 State business days                      |
| <b>Task Group 6.7.2 Project Management Services</b> |   |   |
| 6.7.2.1   | <ul style="list-style-type: none"> <li>Master Project Management Plan (MPP) including the Master Project Schedule (MPS) and a plan for each of the following management areas: <ul style="list-style-type: none"> <li>Integration Management Plan</li> <li>Scope Management Plan</li> <li>Time Management Plan</li> <li>Cost Management Plan</li> <li>Human Resource Management Plan</li> <li>Risk Management Plan</li> <li>Communications Management Plan</li> <li>Quality Management Plan</li> <li>Procurement Management Plan</li> </ul> </li> </ul> | MPP and MPS due 60 State business days following contract award |
| 6.7.2.2   | Project Management Activities and Task Report   | Report weekly   |
| 6.7.2.3   | System Architecture Support and Task Report   | Report weekly   |
| 6.7.2.4   | System Development Support and Task Report  | Report weekly   |
| 6.7.2.5   | Project Process Improvement and Task Report   | Report weekly   |
| 6.7.2.6   | Current Project Documents Review and Task Report  | As requested by the NS PM                                       |
| 6.7.2.7   | Oversight Organizations and Control Agencies Support and Task Report  | As requested by the NS PM                                       |

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| Task  | Deliverable  | Completion Date                                 |
|---|--|---|
| 6.7.2.8   | Transition Out Support and Task Report                             | 90 State business days prior to end of contract |
| <b><i>Task Group 6.7.3 Un-Anticipated Tasks</i></b> |  |   |
| 6.7.3   | The Contractor shall provide un-anticipated services as requested. | As requested by the NS PM                       |

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### **6.9 Mandatory Staffing Requirements Detail**

1. All proposed Contractor staff experience must have been performed within the past **ten (10) years**.
2. The proposed Contractor Senior Project Manager shall be PMP certified and have a minimum of seven (7) years (full time equivalent, FTE) experience, providing PM services for large-scale software development/system integration projects, defined for this solicitation as system with a minimum of 50,000 daily transactions *and* with greater than 5,000 total users, with at least four (4) years of that experience in a lead capacity and have a bachelor's degree.
3. The proposed Contractor Project Manager shall be PMP certified and have a minimum of five (5) years FTE experience, providing PM services a for large-scale software development/system integration projects, defined for this solicitation as system with a minimum of 50,000 daily transactions *and* with greater than 5,000 total users, with at least two (2) years of that experience in a lead capacity and have a bachelor's degree.
4. All proposed Contractor staff assigned project management tasks must have a minimum of five (5) years FTE experience providing project management support services for large-scale software development/system integration projects, defined for this solicitation as system with a minimum of 50,000 daily transactions *and* with greater that 5,000 total users, including:
  - A minimum of four (4) years FTE experience advising IT projects in the acceptance and implementation of project management best practices based on one or more of the following, or suitable equivalent for project management, which must be reflected in the resume:
    - PMBOK
    - Institute of Electrical and Electronics Engineers (IEEE)
    - Software Engineering Institute (SEI)
    - Capability Maturity Model – Integrated (CMMI)
    - A suitable equivalent must be supported by Contractor documentation and is subject to State staff evaluation and approval.
5. At least one proposed Contractor staff has a minimum of three (3) years FTE experience advising IT projects in the processes and procedures necessary to redevelop a large existing client-server application of a large-scale software development/system integration project, defined for this solicitation as a system with a minimum of 50,000 daily transactions, as a web-based service oriented architecture application.
6. At least one proposed Contractor staff has a minimum of three (3) years FTE experience with a requirements and use case management tool.
7. At least one proposed Contractor staff has a minimum of four (4) years FTE experience within an IT environment analyzing, documenting and mitigating

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issues and recommendations from oversight organizations and control agencies, including :

- Internal processes (Software Systems Engineering V & V results, software vendor reports/correspondence, project documents, etc.)
- External processes (Independent Project Oversight Contractors (IPOC) and Independent Verification and Validation (IV&V) Contractors, State and federal requirements, etc).

### 6.9.1 Resource Plan (Bid Deliverable)

- Complete Exhibit S, Resource and Cost Plan detailing by task the names, personnel classifications, and hourly rates for all personnel proposed for this project. Expand the table if more than one staff will be assigned to an individual task.

Note to Bidders: The Resource and Cost Plan submitted with a Draft Proposal shall not include costs; only resources.

- Secondly, write a brief Staffing Plan that describes how the proposed resources (Contractor staff and subcontractor staff, if proposed) will ensure that all tasks will be completed on time and on budget.
- Submit resumes for all proposed staff, including proposed subcontractor staff, using the specific format in Exhibit P, Staff Resume Format.

Proposal Item 21 Bidders' **Draft** Proposal submissions must contain:

- A Resource and Cost Plan, with resources but **No Actual Dollars in Costs**, see Exhibit S
- A written Staffing Plan as described above
- Resumes for all proposed staff formatted according to Exhibit P

Proposal Item 21 Bidders' **Final** Proposal submissions must contain:

- A written Staffing Plan as described above
- Resumes for all proposed staff formatted according to Exhibit P

Note to Bidders: The Resource and Cost Plan submitted with a Draft Proposal shall not include costs; only resources.



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### 6.9.2 Team Skill Cross Reference (Bid Deliverable)

To document the traceability of KSAs to personnel, complete Table 3 – Team Skill Cross Reference.

*Proposal Item 23: Bidders' Draft and Final Proposal submissions must contain a completed Team Skill Cross Reference (Table 3) mapping proposed contract staff to the required knowledge, skills and abilities.*

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**Table 3. Team Skill Cross Reference**

| Skill Area  | Enter Staff Name(s) |
|---|---------------------|
| 1. All proposed contractor staff experience must have been performed within the past <b>ten (10) years</b> .  |                     |
| 2. The proposed Senior Project Manager shall be PMP certified and have a minimum of seven (7) years (full time equivalent, FTE) experience, providing PM services for large-scale software development/system integration projects, defined for this solicitation as system with a minimum of 50,000 daily transactions <i>and</i> with greater than 5,000 total users, with at least four (4) years of that experience in a lead capacity and have a bachelor's degree   |                     |
| 3. The proposed Project manager shall be PMP certified and have a minimum of five (5) years FTE experience, providing PM services for a large-scale software development/system integration projects, defined for this solicitation as system with a minimum of 50,000 daily transactions <i>and</i> with greater than 5,000 total users, with at least two (2) years of that experience in a lead capacity and have a bachelor's degree.   |                     |
| <p>4. All proposed Contractor staff assigned project management tasks have a minimum of five (5) years FTE experience providing project management support services for large-scale software development/system integration projects, defined for this solicitation as system with a minimum of 50,000 daily transactions <i>and</i> with greater than 5,000 total users, including:</p> <ul style="list-style-type: none"> <li>• A minimum of four (4) years FTE experience advising IT projects in the acceptance and implementation of project management best practices based on one or more of the following, or suitable equivalent for project management, which must be reflected in the resume: <ul style="list-style-type: none"> <li>• PMBOK</li> <li>• Institute of Electrical and Electronics Engineers (IEEE)</li> <li>• Software Engineering Institute (SEI)</li> <li>• Capability Maturity Model – Integrated (CMMI)</li> <li>• A suitable equivalent must be supported by Contractor documentation and is subject to State staff evaluation and approval.</li> </ul> </li> </ul> |                     |
| 5. At least one proposed Contractor staff has a minimum of three (3) years FTE experience advising IT projects in the processes and procedures necessary to redevelop a large existing client-server application of a large-scale software development/system integration project, defined for this solicitation as a system with a minimum of 50,000 daily transactions, as a web-based service oriented architecture application..  |                     |
| 6. At least one proposed Contractor staff has a minimum of three (3) years FTE experience with a requirements and use case management tool.   |                     |
| <p>7. At least one proposed Contractor staff has a minimum of four (4) years FTE experience within an IT environment analyzing, documenting and mitigating issues and recommendations from multiple oversight organizations and control agencies including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Internal processes (Software Systems Engineering Verification and Validation (V&amp;V) results, software vendor reports/correspondence, project documents, etc.)</li> <li>• External processes (Independent Project Oversight Contractors (IPOC) and Independent IV&amp;V and State and federal organizations and agencies, etc.)</li> </ul>   |                     |

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### 6.9.3 Tasks and Deliverables Approach in Bid Response

Submitted proposals for this RFP shall include a description of the Bidder's approach in compliance with PMBOK standards and OSI Best Practices for the successful completion of each task and deliverable contained in this SOW. Bidders shall organize their response by Task Group.

Proposal Item 24: Bidders' Draft and Final Proposal submissions must contain:

*A description of the Bidder's approach for the completion of each task and deliverable in compliance with PMBOK and OSI Best Practices, organized by Task Groups.*

### 6.10 Invoicing

The Contractor shall render invoices for total monthly charges in the month following the month for which the charges accrue monthly (in arrears) for completed deliverables. The Contractor must submit monthly invoices within seven (7) State business days after the end of each month. Late invoice submittal may cause delay in payment. The OSI shall retain, out of the amount the Contractor has earned and invoiced ten percent (10%) pending satisfactory contract completion and acceptance of all deliverables. Each Task Report is considered a deliverable.

The criteria the State will use to determine "acceptable work products" will be based on satisfactory completion of deliverables. If the OSI Contract Manager does not accept specific line items of an invoice because the associated deliverables are not deemed to be "acceptable work products" as defined above, payment of invoice will be withheld and the Contractor will be notified. The Contractor must take timely and appropriate action and demonstrate to the OSI Contract Manager that the Contractor has successfully completed the scheduled work for each general task or deliverable before payment will be made. Contractor shall re-invoice following acceptance by the OSI Contract Manager.

#### 6.10.1 Invoice Content

Payments will be approved by the OSI Contract Manager. Invoices submitted for payment must be submitted in triplicate and include:

- Contract number
- Invoice number
- Invoice date
- Date service performed
- Description of service performed (tasks and deliverables)
- Hours of service performed by individual contract personnel
- Personnel name and classification
- Dollar amount charged for the billing month for each completed deliverable

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- A certification statement signed by a company official, attesting to the accuracy of the invoice data.

All invoices must be separated into line items for specific deliverables within their parent task. Final content/layout for invoices will be determined after the contract award. Invoices shall not include charges for vacation, sick leave, holidays, military leave, jury duty, Contractor's staff meetings or administrative work.

### **6.10.2 Collection of Withhold Amounts**

Collection of Withhold Amounts will be paid in accordance with the State Model Information Technology Personal Services Special Provisions, Section 5 – Invoicing, and Payment for Services.

### **6.10.3 Invoice Mailing Address**

All invoices must be submitted directly to:

Office of Systems Integration  
Attn: Accounting  
2525 Natomas Park Drive, Suite 100  
Sacramento, CA 95833

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## 7. COST

### 7.1 **Fixed-Price Services and Deliverables**

This shall be a fixed price contract. All services and deliverables shall be cost at a fixed-price per item according to the requirements found in Section 6, Statement of Work.

### 7.2 **Resource and Cost Plan**

Proposed cost shall be detailed in the completed Resource and Cost Plan, Exhibit S.

*Proposal Item 25: Bidders' Final Proposal submission must contain a completed Exhibit S, Resource and Cost Plan spreadsheet in a sealed separate envelope labeled **Sealed Cost Data** per instructions in Section 8, Proposal Format and Content.*

### 7.3 **Cost Summary Table**

Proposed cost shall be summarized by State Fiscal Year (SFY) including optional years in the Summary Cost Table, Exhibit T.

*Proposal Item 24: Bidders' Final Proposal submission must contain a completed Exhibit T, Summary Cost Table in the Sealed Cost Data envelope per instructions in Section 8, Proposal Format and Content.*

### 7.4 **Un-anticipated Services and Deliverables**

Un-anticipated Services and Deliverables requested by the Contract Manager with a Work Authorization Form (EXHIBIT U) will be priced per service and/or deliverable at the time of the request. The Bidder's total un-anticipated task costs shall not exceed ten percent (10%) of the total proposed contract cost.

The Work Authorization Form for any Un-anticipated Tasks will require joint approval from the State and ACF prior to execution.

### 7.5 **Sealed Cost Data**

For submission of the Bidders' Final Proposal and per instructions in Section 8, Proposal Format and Content, enclose a completed Resource and Cost Plan and the Summary Cost Table in a separate sealed envelop labeled **Sealed Cost Data**.

**NOTE TO BIDDERS: THE SEALED COST DATA ENVELOPE SHALL INCLUDE EXHIBITS S AND T.**

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## **8. PROPOSAL FORMAT AND CONTENT**

### ***8.1 Proposal Requirements***

#### **8.1.1 Bid Format and Number of Copies**

Submit five (5) hardcopies (one marked as the Master) and one (1) softcopy (in Microsoft Office 2002 format) of your response to the Procurement Official listed in Section 1.7, Procurement Division Official.

#### **8.1.2 Due Date and Time**

All bids must be received by the Procurement Division Official named in Section 1.7, Procurement Division Official, no later than the date and time specified in Section 1.8, Key Action Dates.

### ***8.2 Proposal Items by Volumes***

#### **8.2.1 Volume 1**

- Cover Letter, signed
- Table of Contents
- Proposal Response Cross Reference Checklist (Table 4)
- Executive Summary
- Past Experience Summary
- Certification to do Business in the State of California
- Use of Subcontractor Items
  - Bidder Responsibility as prime contractor
  - Management of subcontractors
  - Intent to use subcontractors
  - Procedures for managing subcontractors
  - Notice of Aware to subcontractors
- Documentation:
  - Payee Data Record
  - Workers' Compensation Certification
  - Non-Discrimination Compliance Statement
  - Small Business Status
    - Small Business Status Form
    - Small Business approval letter from DGS (optional)

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- DVBE Participation Program Compliance Options (with NO dollar or value information)
  - Std 840 Documentation of Disabled Veterans Business Enterprise Program Requirements
  - GSPD-05-105 Bidder Declaration
- Target Area Contract Preference (TACPA) (optional)
- Local Agency Military Base Recovery Act (LAMBRA) Preference (optional)
- Enterprise Zone Act (EZA) (optional)
- Small Business Preference (optional)

### **8.2.2 Volume 2 – Completed and Signed Contract (STD. Form 213)**

### **8.2.3 Volume 3 – Response to Technical Requirements**

- Written Staffing Plan
- Resource and Cost Plan, Exhibit S
- Proposed Staff Resumes
- Team Skill Cross Reference (Table 3)
- Minimum of three (3) or maximum of five (5) Past Performance References
- Tasks and Deliverables Approach

### **8.2.4 Volume 4 – Sealed Cost Data**

- Submit five (5) hardcopies (one marked as the Master) and one 91) softcopy (in Microsoft Office 2002 format) of fully Completed Proposed Contract Costs in within separate sealed cover to the Procurement Official listed in Section 1.7, Procurement Division Official.

## **8.3 Proposal Response Cross Reference Checklist**

The following table is for the purposes of Bidder verifying required and optional document contents for both the draft proposal and Final Proposal. The Bidder must enter the volume Page Number column to indicate the specific volume and page number in their response where each item can be found.

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**Table 4. Proposal Response Cross Reference Checklist**

| <b>Proposal Item #</b> | <b>Volume and Page Number</b> | <b>Content Requirement</b>                              | <b>Bidders Initials – Submitted</b> |
|------------------------|-------------------------------|---|-------------------------------------|
| <b>Vol. 1</b>          |                               | <b>Volume 1</b>   |                                     |
| 1                      |                               | Cover letter, signed                                    |                                     |
| 2                      |                               | Letter of Financial Interest Disclosure, Exhibit D      |                                     |
| 3                      |                               | Table of Contents                                       |                                     |
| 4                      |                               | Proposal Response Cross Reference Checklist             |                                     |
| 5                      |                               | Executive Summary                                       |                                     |
| 6                      |                               | Certification to do Business in the State of California |                                     |
| 7                      |                               | Bidder as prime contractor                              |                                     |
| 8                      |                               | Prior Management of subcontractors                      |                                     |
| 9                      |                               | Intent to use subcontractors                            |                                     |
| 10                     |                               | Procedures for managing subcontractors                  |                                     |
| 11                     |                               | Notice of Award to subcontractors                       |                                     |
| 12                     |                               | Payee Data Record                                       |                                     |
| 13                     |                               | Workers' Compensation Certification                     |                                     |
| 14                     |                               | Non-Discrimination Compliance Statement                 |                                     |



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| Proposal Item # | Volume and Page Number | Content Requirement  | Bidders Initials – Submitted |
|-----------------|------------------------|--|------------------------------|
| 15              |                        | DVBE Participation Program Compliance – Mandatory  |                              |
| 15.1            |                        | DVBE Incentive Program   |                              |
| 16              |                        | Target Area Contract Preference (TACPA)  |                              |
| 17              |                        | Local Agency Military Base Recovery Preference (LAMBRA)  |                              |
| 18              |                        | Enterprise Zone Act (EZA)  |                              |
| 19              |                        | Small Business Preference  |                              |
| <b>Vol. 2</b>   |                        | <b>Contract</b>  |                              |
| 20              |                        | Completed Contract (Std. 213)  |                              |
| <b>Vol. 3</b>   |                        | <b>Technical Requirements</b>  |                              |
| 21              |                        | <b>Past Performance References</b>   |                              |
| 22              |                        | <ul style="list-style-type: none"> <li>Resource and Cost Plan – Draft Proposal contains No dollars in Cost</li> <li>Written Staffing Plan</li> <li>Proposed Staff Resumes</li> </ul> |                              |
| 23              |                        | Team Skill Cross Reference   |                              |
| 24              |                        | Tasks and Deliverables Approach  |                              |
| <b>Vol. 4</b>   |                        | <b>Sealed Cost Data</b>  |                              |
| 25              |                        | <ul style="list-style-type: none"> <li>Resource and Cost Plan – Final Proposal contains dollars in Cost</li> <li>Summary Cost Table</li> </ul>                                       |                              |

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### 9. PROPOSAL EVALUATION

Proposals will be evaluated using a combination of Pass/Fail and numerically scored criteria, with the exception that Staff Experience is mandatory. The table below is a summary of evaluation factors and each factor is described in detail on the following pages.

**Table 5. Summary of RFP Scoring**

| Factor                      | Type of Scoring Used | Total Points |
|-----------------------------|----------------------|--------------|
| Administrative Requirements | Pass/Fail            | N/A          |
| Staff Experience            | Pass/Fail            | N/A          |
| Past Performance References | Numerical            |              |
| Cost                        | Numerical            |              |
| <b>Sub-Total</b>            |                      |              |
| TACPA, EZA, LAMBRA Claims   | Numerical            |              |
| DVBE Incentive              | Numerical            |              |
| Small Business Preference   | Numerical            |              |
| <b>Total Points</b>         |                      |              |

#### **9.1 Administrative Requirements: Pass/Fail**

All of the following conditions must be met to pass the Administrative Requirements scoring phase:

**Table 6. Pass/Fail Administrative Requirements**

| Administrative Requirement  | Score     |
|---|-----------|
| ➤ The complete bid package is received by the Procurement Division Official listed in RFP Section 1.7 prior to due date and time. | Pass/Fail |
| ➤ The response contains a completed Proposal Response Checklist.  | Pass/Fail |
| ➤ The response contains responses to all Proposal Response Items.   | Pass/Fail |
| ➤ All costs are only included in the Sealed Cost Data Envelope for Final Proposal.  | Pass/Fail |

*If any of the above items are not met, the bid may be deemed non-responsive and eliminated from further evaluation.*

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### 9.2 Staff Experience - Mandatory

The Staff Experience requirement is mandatory and therefore, not scored. Bids that do not meet Staff Experience requirements may be deemed non-responsive.

### 9.3 Past Performance References: 390 Points

Bidders will be awarded points based on responses received from their Past Performance References. Section 6.2 fully describes Bidder's responsibilities for ensuring that Past Performance Reference customers comply with the steps for completing and signing Past Performance Reference forms.

Customers receiving Past Performance Reference forms will be asked to respond to a series of statements evaluating the Bidder's performance during work completed for the customer reference. Each statement can be scored from one (1) to five (5) points. Exhibit O, Past Performance Reference Form, has each evaluation statement as well as the rating scale.

The points assigned, based on responses from the highest three (3) customer references, will be accumulated to produce the scores for General Performance, Project Management, and Business Relations.

### 9.4 Cost: 390 Points

Cost is fifty percent (50%) of the score applied to the evaluation of each bid. The bid with the lowest total cost will receive the maximum number of points (390). For all other bids, the bid amount is divided into the lowest bid amount to calculate a percentage. This percent is multiplied by the maximum costs points to calculate the points awarded.

Table 7. Cost Evaluation Methodology (example)

| Bidder | Bid       | Ratio of lowest Fixed Price to Bidder's Cost | Points Awarded               |
|--------|-----------|--|------------------------------|
| A      | \$350,000 | $350,000 / 350,000 = 100\%$                  | $390 \times 100\% = 390$     |
| B      | \$400,000 | $350,000 / 400,000 = 87.5\%$                 | $390 \times 87.5\% = 341.25$ |
| C      | \$450,000 | $350,000 / 450,000 = 77.8\%$                 | $390 \times 77.8\% = 303.4$  |

### 9.5 Preference Programs

Cost adjustments for preference claims (TACPA, EZA, LAMBRA and Small Business) and DVBE participation incentives will be performed during cost assessment.

Per Government Code, Section 14835, et seq., Bidders who qualify as a small business will be given a 5 percent preference for contract evaluation purposes only. The 5 percent preference is calculated on the total number of points awarded to the highest scoring non-small business that is responsible and responsive to the

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proposal requirements. If after applying the small business preference a small business has the highest score, no further preferences would be applied as the small business cannot be displaced from the highest score position by application of any other preference. The rules and regulations of this law, including the definition of a small business for the delivery of goods and services are contained in the California Code of Regulations, Title 2, Section 1896, et seq. and can be viewed online at [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus).

In accordance with Section 999.5(a) of the Military and Veterans Code, an incentive will be given to bidders who provide Disabled Veteran Business Enterprise (DVBE) participation. For contract award evaluation purposes only, the State shall apply an incentive to proposals that include California certified DVBE participation. The maximum incentive for this procurement is 10 percent of the highest total earned administrative (non-technical) and cost points and is based on the amount of DVBE participation obtained, according to the table below.

**Table 8. Confirmed DVBE Participation Incentive**

| Confirmed DVBE Participation of: | DVBE Incentive: |
|----------------------------------|-----------------|
| More than 3%                     | 10%             |
| 3%                               | 9%              |
| 2% or more but less than 3%      | 6%              |
| 1% or more but less than 2%      | 3%              |
| Less than 1%                     | 0%              |

The DVBE Incentive percentage is applied to administrative (non-technical) and cost points earned by the Bidder. For this RFP, the Staff Experience, Past Performance References and Technical Requirements are considered technical requirements as each measures the Bidder's technical ability to deliver the desired services. Since administrative requirements are scored only as Pass/Fail, the DVBE incentive percentage is applied only to the cost score points. The following illustrates the incentive points available based on the Bidder confirmed percent of DVBE participation, based on a maximum of 780 points (390 technical and 390 cost), and at least one (low cost) bidder earning the maximum of 390 cost points.

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### Example 1. Example DVBE Incentive Calculation

| Confirmed DVBE Participation of: | DVBE Incentive:  |
|----------------------------------|------------------|
| More than 3%                     | (10% of 390)=39  |
| 3%                               | (9% of 390)=35.1 |
| 2% or more but less than 3%      | (6% of 390)=23.4 |
| 1% or more but less than 2%      | (3% of 390)=11.7 |
| Less than 1%                     | 0                |

The example below illustrates how DVBE Incentives and Small Business Preferences will be applied. In the example, Bidder A initially has the most points (520 total technical and cost points). As the only small business, Bidder C earns the 5 percent small business preference, which is applied to the total score (accumulated technical, non-technical and cost points, prior to incentives and preferences) to yield the highest overall point total 526. In this example Bidder C would be awarded the contract, because a small business cannot be displaced by any other preference, even though applying DVBE Preferences to Bidder A would have given Bidder A a higher point total.

### Example 2. Example Bidder Points with Incentives Applied – Small Business

| Bidder | Meets Small Business Requirement? | Technical Requirement Points (W) | Cost Points (X) | Total Score before Incentives | Small Business Preference Points (H x 0.05) | Total Points w/ Small Bus = (W+X+H) | DVBE INCENTIVE % from Table IX-8 (Y) | DVBE incentive points (Z) = (X * Y) | Total Score |
|--------|-----------------------------------|----------------------------------|-----------------|-------------------------------|---|-------------------------------------|--------------------------------------|-------------------------------------|-------------|
| A      | no                                | 260                              | 260             | 520                           | -   | 520                                 | 3%                                   | 9                                   | 528         |
| B      | no                                | 250                              | 250             | 500                           | -   | 500                                 | 10%                                  | 30                                  | 525         |
| C      | yes                               | 200                              | 300             | 500                           | 26  | 526                                 | 0%                                   | -                                   | 526         |

**Where H** = the highest Total Point score among the non-small business Bidders - in this case, 520 (Bidder A).

Example 3. Example Bidder Points with Incentives Applied – DVBE illustrates how DVBE incentives and Small Business Preferences would be applied in a slightly different scenario. In the example, Bidder A initially has the most points (520 total technical and cost points). As the only small business, Bidder C earns the 5% small business preference, which is applied to the total score (accumulated technical, non-technical and cost points, prior to incentives and preferences) but does not yield the highest overall point total. Bidders A and B earn DVBE preference points and Bidder B has the highest total points after

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applying the DVBE incentive of 10% (resulting from confirmed DVBE participation of more than 3%). In this example Bidder B would be awarded the contract.

### Example 3. *Example Bidder Points with Incentives Applied – DVBE*

| Bidder | Meets Small Business Requirement? | Technical Requirement Points (W) | Cost Points (X) | Total Score before Incentives | Small Business Preference Points (H x 0.05) | Total Points w/ Small Bus = (W+X+H) | DVBE INCENTIVE % from Table IX-8 (Y) | DVBE incentive points (Z) = (X * Y) | Total Score |
|--------|-----------------------------------|----------------------------------|-----------------|-------------------------------|---|-------------------------------------|--------------------------------------|-------------------------------------|-------------|
| A      | no                                | 220                              | 300             | 520                           | -   | 520                                 | 3%                                   | 9                                   | 529         |
| B      | no                                | 250                              | 260             | 510                           | -   | 510                                 | 10%                                  | 30                                  | 536         |
| C      | yes                               | 200                              | 280             | 480                           | 26  | 506                                 | 0%                                   | -                                   | 506         |

**Where H** = the highest Total Point score among the non-small business Bidders - in this case, 520 (Bidder A).

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### EXHIBIT A – STD 213 FOR ALTERNATIVE PROTEST CONTRACTS

STATE OF CALIFORNIA

#### STANDARD AGREEMENT

STD. 213 (NEW 06/03)

#### STANDARD AGREEMENT

#### FOR I.T. GOODS/SERVICES ONLY

|                                |                        |
|--------------------------------|------------------------|
|                                | REGISTRATION<br>NUMBER |
| PURCHASING AUTHORITY<br>NUMBER | AGREEMENT NUMBER       |

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

Office of Systems Integration (hereafter called State)

CONTRACTOR'S NAME

2. The term of this Agreement is:

3. The maximum of this Agreement is: \$

4. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Agreement:

Attachment 1 –Statement of Work

Attachment 2 – New System Project Management Support Services Contract Provisions

Attachment 3 – Information Technology Maintenance Special Provisions

<http://www.documents.dgs.ca.gov/pd/modellang/maintenancespecial12103.pdf>

Attachment 4 – Information Technology Personal Services Special Provisions

<http://www.documents.dgs.ca.gov/pd/modellang/personalservicespecial012103.pdf>

Attachment 5 – Costs

RFP DGS-8003B and Contractor's bid in response to RFP DGS-8003B are hereby incorporated and made a part of this Agreement. In the event of a conflict the RFP shall prevail.

This award is being made under the provisions of Public Contract Code Section 12125 et seq., the Alternative Protest Pilot Project and is subject to protest after award. Under the terms of this contract, the State reserves the right to terminate the contract for convenience. The State shall not be liable for any costs associated with the termination for convenience if issued prior to May 15, 2001.

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**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

|  |             |  |
|--|-------------|--|
| <b>CONTRACTOR</b>  |             | <b>CALIFORNIA</b><br><b>Department of</b><br><b>General Services</b><br>Use Only |
| CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)                |             |  |
| BY (Authorized Signature)<br> | DATE SIGNED |  |
| PRINTED NAME AND TITLE OF PERSON SIGNING   |             |  |
| ADDRESS  |             |  |
| <b>STATE OF CALIFORNIA</b>   |             |  |
| AGENCY NAME<br><b>Office of Systems Integration</b>  |             |  |
| BY (Authorized Signature)<br> | DATE SIGNED | <input type="checkbox"/> Exempt<br>per   |
| PRINTED NAME AND TITLE OF PERSON SIGNING<br><b>XXXXXXXXXXXXXXXXXXXXXXXXXXXX, Director</b>                      |             |  |
| ADDRESS<br><b>2525 Natomas Park Drive, Sacramento, CA 95833</b>  |             |  |



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### ATTACHMENT 2

#### CWS/CMS - PMSS

### NEW SYSTEM PROJECT MANAGEMENT SUPPORT SERVICES CONTRACT PROVISIONS

1. **DEFINITIONS:** Unless otherwise specified in the Statement of Work the following terms shall be given the meaning shown, unless context requires otherwise.
  - a) **"Acceptance Tests"** means those tests performed during the Performance Period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
  - b) **"Application Program"** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
  - c) **"Attachment"** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment is not connected by the Contractor.
  - d) **"Business entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
  - e) **"Buyer"** means the State's authorized contracting official.
  - f) **"Commercial Software"** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
  - g) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
  - h) **"Custom Software"** means Software that does not meet the definition of Commercial Software.
  - i) **"Contractor"** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
  - j) **"Data Processing Subsystem"** means a complement of Contractor-furnished individual Machines, including the necessary controlling elements (or the functional equivalent) and Operating Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor-supplied power and/or signal cables; e.g., direct access controller and drives, a cluster of terminals with their controller, etc.
  - k) **"Data Processing System (System)"** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors) and Operating Software, which are acquired to operate as an integrated group.
  - l) **"Deliverables"** means Goods, Software, Information Technology, telecommunications technology, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
  - m) **"Designated CPU(s)"** means for each product, if applicable the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific "Designated CPU(s)" are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
  - n) **"Documentation"** means nonproprietary manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Documentation only to the extent that such materials are described in or required by the Statement of Work.
  - o) **"Equipment"** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or subsystem, including its Hardware and Operating Software (if any).
  - p) **"Equipment Failure"** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment's intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.
  - q) **"Facility Readiness Date"** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
  - r) **"Goods"** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
  - s) **"Hardware"** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
  - t) **"Installation Date"** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
  - u) **"Information Technology"** includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and

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- retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.
- v) **"Machine"** means an individual unit of a Data Processing System or subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
  - w) **"Machine Alteration"** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
  - x) **"Maintenance Diagnostic Routines"** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
  - y) **"Manufacturing Materials"** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
  - z) **"Mean Time Between Failure (MTBF)"** means the average expected or observed time between consecutive failures in a System or component.
  - aa) **"Mean Time to Repair (MTTR)"** means the average expected or observed time required to repair a System or component and return it to normal operation.
  - bb) **"Operating Software"** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
  - cc) **"Operational Use Time"** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
  - dd) **"Performance Testing Period"** means a period of time during which the State, by appropriate tests and production runs, evaluates the performance of newly installed Equipment and Software prior to its acceptance by the State.
  - ee) **"Period of Maintenance Coverage"** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
  - ff) **"Preventive Maintenance"** means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
  - gg) **"Principal Period of Maintenance"** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
  - hh) **"Programming Aids"** means Contractor-supplied programs and routines executable on the Contractor's Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base management systems, and utility routines, (tape-to-disk routines, disk-to-print routines, etc.).
  - ii) **"Program Product"** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
  - jj) **"Remedial Maintenance"** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
  - kk) **"Site License"** means for each product, the term "Site License" shall mean the license established upon acquisition of the applicable number of copies of such product and payment of the applicable license fees as set forth in the Statement of Work.
  - ll) **"Software"** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
  - mm) **"Software Failure"** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
  - nn) **"State"** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
  - oo) **"System"** means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.
  - pp) **"U.S. Intellectual Property Rights"** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

## 2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

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3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.
4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
  - a) Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.
  - b) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
  - c) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
  - d) If this Contract is in excess of \$500,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
  - e) To the extent that this contract falls within the scope of Government Code Section 11135, Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.
  - a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
  - b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
9. **ASSIGNMENT:** This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.
10. **WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.
11. **ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:
  - a) these Provisions (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions) ;
  - b) information technology special provisions;
  - c) statement of work, including any specifications incorporated by reference herein; and
  - d) all other attachments incorporated in the contract by reference.

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### 12. PACKING AND SHIPMENT:

- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
  - i) show the number of the container and the total number of containers in the shipment; and
  - ii) the number of the container in which the packing sheet has been enclosed.
- b) All shipments by Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

### 13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:

No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

### 14. DELIVERY:

Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

### 15. SUBSTITUTIONS:

Substitution of Deliverables may not be tendered without advance written consent of the Buyer. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

### 16. INSPECTION, ACCEPTANCE AND REJECTION:

Unless otherwise specified in the Statement of Work:

- a) Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance System or other similar business practices related to performance of the Contract.
- b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
- c) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) All Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
- e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within thirty (30) days of delivery, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.

### 17. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

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### 18. WARRANTY:

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, Contractor will, upon the State's request, provide a master copy of the Software for comparison and correction.
- c) Unless otherwise specified in the Statement of Work:
  - (i) Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
  - (ii) Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by Contractor, (B) use of Software in combination with or on products other than as specified by Contractor, or (C) misuse by the State.
  - (iii) Where Contractor resells Hardware or Software it purchased from a third party, and such third party offers additional or more advantageous warranties than those set forth herein, Contractor will pass through any such warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will be supplemental to, and not relieve Contractor from, Contractor's warranty obligations set forth above.
- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and Contractor's sole obligation will be limited to:
  - (i) re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
  - (ii) should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on Contractor's liability set forth in the Section entitled "Limitation of Liability."
- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**19. SAFETY AND ACCIDENT PREVENTION:** In performing work under this Contract on State premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

**20. INSURANCE:** When performing work on property in the care, custody or control of the State, Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance the State deems appropriate under the Contract. Contractor shall furnish an insurance certificate evidencing required insurance coverage acceptable to the State. Upon request by the Buyer, the Contractor may be required to have the State shown as an "additional insured" on selected policies.

### 21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefore.
- b) STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, DELIVERABLES SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

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### 22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
  - (i) Stop work as specified in the Notice of Termination.
  - (ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
  - (iii) Terminate all sub-Contracts to the extent they relate to the work terminated.
  - (iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;
- c) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:
  - (i) The Contract price for Deliverables or services accepted by the State and not previously paid for, adjusted for any savings on freight and other charges; and
  - (ii) The total of:
    - A) The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
    - B) The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
    - C) Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- d) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

### 23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled "Force Majeure" and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
  - i) Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
  - ii) Make progress, so that the lack of progress endangers performance of this Contract; or
  - iii) Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under sub-section a) above, may be exercised if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a shorter period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third party vendors charge for Manufacturing Materials (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.
- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
  - (i) completed Deliverables,
  - (ii) partially completed Deliverables, and,
  - (iii) subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined by a final ruling in accordance with the Disputes Clause that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

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### 24. FORCE MAJEURE

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

### 25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to Contractor or to make a claim against the Contractor therefore.

### 26. LIMITATION OF LIABILITY:

- a) Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to two times the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to real or tangible personal property caused by Contractor's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Contractor's liability for such damages arises out of sub-section b)(i), b)(ii), or b)(iv) above.

### 27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

### 28. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of Contractor or any of its agents, subcontractors, employees, suppliers, laborers, or any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

### 29. INVOICES: Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item



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price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.
- 32. NEWLY MANUFACTURED GOODS:** All Goods furnished under this Contract shall be newly manufactured Goods; used or reconditioned Goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Contract shall not be made without prior written approval of the Department of General Services.
- 36. DOCUMENTATION:**
- a) The Contractor agrees to provide to the State, at no charge, a number of all nonproprietary manuals and other printed materials, as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
  - b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.
- 37. RIGHTS IN WORK PRODUCT:**
- a) Software and Modifications

The State shall retain all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with Federal Financial Participation (FFP). The U.S. Department of Health and Human Service (HHS) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such software, modifications, and documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership and licensing provisions in this Section.
  - b) Pre-Existing Materials

Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-existing Materials") are not subject to the ownership and licensing provisions of Section (a). However, if Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract will be subject to the ownership and licensing provisions of the previous paragraph, Section 37(a).



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c) Ideas, Concepts, Know-how or Techniques

The ideas, concepts, know-how or techniques related to data processing developed during the course of the Contract by the Contractor or jointly by the Contractor and the State can be used by either party in any way deemed appropriate.

d) Deliverables and Work Product

- 1) The State shall own all right, title and interest in and to the Deliverables, including without limitation the Software (excluding Commercial Software for which ownership is not subject to sale). Contractor shall take all actions necessary to transfer ownership of all right, title and interest in and to the Deliverables to the State upon their acceptance.
- 2) As used herein, "Work Product" includes all products or services performed under this Contract, including without limitation the Deliverables, and excluding (1) Contractor's administrative communications and records relating to this Contract and (2) the ideas, concepts, know-how or techniques identified in the previous paragraph, Section 37(c). All Work Product shall be deemed works made for hire of the State for all purposes of copyright law, and copyright shall belong solely to the State. In the event that any such work is adjudged to be not a work made for hire, Contractor agrees to assign, and hereby assigns, all copyright in such work to the State. Contractor shall, at the expense of the State, assist the State or its nominees to obtain registrations of copyrights, trademarks, or patents, and other rights for all such works in the United States and any other countries. Contractor agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country trademarks, copyrights, and patents, and other rights, and to transfer or cause to transfer to the State all the right, title and interest in and to such works. Contractor also agrees to waive and not assert any moral rights it may have in any such works. The State shall peacefully and quietly have, hold, possess, and enjoy each Deliverable without suit, molestation, or interruption.

38. **PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA:**

- a) State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.
- b) The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations under this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

39. **PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:**

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section 39a). The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section 39a) will be conditional upon the following:

- i) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- ii) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor at its option and expense either to procure for the State the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the

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use of such Deliverables or Software by the State shall be prevented by injunction, the Contractor agrees to take back such Deliverables or Software and make every reasonable effort to assist the State in procuring substitute Deliverables or Software. If, in the sole opinion of the State, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables or Software and refund any sums the State has paid Contractor less any reasonable amount for use or damage.

- d) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
  - (i) The combination or utilization of Deliverables furnished hereunder with Equipment or devices not made or furnished by the Contractor; or,
  - (ii) The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or
  - (iii) The modification by the State of the Equipment furnished hereunder or of the Software; or
  - (iv) The combination or utilization of Software furnished hereunder with non-contractor supplied Software.
- e) Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

- 40. EXAMINATION AND AUDIT:** Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting Documentation pertaining to performance of this Contract. Contractor agrees to maintain such records in good and legible condition for possible audit during the term of the Contract and for a minimum of three (3) years after final payment or until conclusion of any pending matter, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State and federal government to audit records and interview staff in any subcontract related to performance of this Contract.

Contractor also agrees to allow access by the U.S. Department of Health and Human Services (HHS) or the State to ensure compliance with 45 CFR §95.615, the terms of which require the State to allow access to the system in all of its aspects, including design developments, operation, and cost records of contractors and subcontractors at such intervals as are deemed necessary by the HHS to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system.

**41. DISPUTES:**

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless the State, on its own initiative, has already rendered such a final decision. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. If the Contractor is not satisfied with the decision of the Department Director or designee, the Contractor may appeal the decision to the Department of General Services, Deputy Director, Procurement Division. In the event that this Contract is for Information Technology Goods and/or services, the decision may be appealed to an Executive Committee of State and Contractor personnel.
- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions. Contractor's failure to diligently proceed in accordance with the State's instructions shall be considered a material breach of this Contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department Director or designee or Deputy Director, Procurement Division if an appeal was made. If the State fails to render a final decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

**42. STOP WORK:**

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 90 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
  - (i) Cancel the Stop Work Order; or

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- (ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
  - (i) The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
  - (ii) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

#### 43. FOLLOW-ON CONTRACTS:

To the extent that it would constitute a conflict of interest, the Contractor will not be eligible to serve as the prime or subcontractor in any contract that is the result of the services provided pursuant to this SOW. However, the Contractor will be eligible to serve in a project management role over the prime contractor and its subcontractors on behalf of the State (e.g., independent verification and validation, oversight of the prime contractor's system architect, administration, oversight of the prime contractor's system engineering, and quality assurance). The Contractor will also be eligible to serve in a project management role or as the prime or subcontractor in other contracts, i.e., contracts resulting from activities outside the scope of this SOW.

Federal law requires recipients of Federal Financial Participation (FFP) to be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft grant applications, or contract specifications, requirements, statements of work, invitations for bids and/or requests for proposals, shall be excluded from competing for such procurements.

#### 44. PRIORITY HIRING CONSIDERATIONS:

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.

#### 45. COVENANT AGAINST GRATUITIES:

The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

#### 46. NONDISCRIMINATION CLAUSE:

The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

#### 47. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

#### 48. ASSIGNMENT OF ANTITRUST ACTIONS:

Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
  - (i) the assignee has not been injured thereby, or
  - (ii) the assignee declines to file a court action for the cause of action.

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- 49. DRUG-FREE WORKPLACE CERTIFICATION:** The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
    - (i) the dangers of drug abuse in the workplace;
    - (ii) the person's or organization's policy of maintaining a drug-free workplace;
    - (iii) any available counseling, rehabilitation and employee assistance programs; and,
    - (iv) penalties that may be imposed upon employees for drug abuse violations.
  - b) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
    - (i) will receive a copy of the company's drug-free policy statement; and,
    - (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract.
- 50. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.
- 51. SWEATFREE CODE OF CONDUCT:**  
Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.
- 52. RECYCLING:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).
- 53. CHILD SUPPORT COMPLIANCE ACT:** For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:  
The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 54. AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).
- 55. ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 56. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
- 57. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 58. DOMESTIC PARTNERS:** For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits, which have otherwise been provided to all employees regardless of marital or domestic partner status.

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### EXHIBIT B – ADA NOTICE

#### ADA NOTICE

#### AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

To meet and carry out compliance with the nondiscrimination requirements of the Americans With Disabilities Act (ADA), it is the policy of the Procurement Division (within the State Department of General Services) to make every effort to ensure that its programs, activities, and services are available to all persons, including persons with disabilities.

For persons with a disability needing a reasonable modification to participate in the Procurement process, or for persons having questions regarding reasonable modifications for the Procurement process, please contact the Procurement Division at (916) 375-4400 (main office); the Procurement Division TTY/TDD (telephone device for the deaf) or California Relay Service numbers which are listed below. You may also contact directly the Procurement Division contact person that is handling this procurement.

**IMPORTANT: TO ENSURE THAT WE CAN MEET YOUR NEED, IT IS BEST THAT WE RECEIVE YOUR REQUEST AT LEAST 10 WORKING DAYS BEFORE THE SCHEDULED EVENT (i.e., MEETING, CONFERENCE, WORKSHOP, etc.) OR DEADLINE DUE-DATE FOR PROCUREMENT DOCUMENTS.**

The Procurement Division TTY telephone numbers are:

Sacramento Office: (916) 376-1891

Fullerton Office: (714) 773-2093

The California Relay Service Telephone Numbers are:

Voice: 1-800-735-2922

TTY: 1-800-735-2929

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### EXHIBIT C – LETTER OF INTENTION TO BID

Department of General Services  
Procurement Division  
Technology Acquisitions  
Attn: Scott Norton  
Procurement Division  
707 Third Street  
West Sacramento, CA 95605

Reference: CWS/CMS New System Project Management Support Services RFP #4130-161 PMSS

This is to notify you that it is our present intention to do the following regarding the above referenced RFP (Bidder shall specify):

- ☐ We intend to submit a bid, and we have no exceptions to the RFP requirements.
- ☐ We intend to submit a bid, but we have one or more exceptions to the RFP requirements for reasons stated in an attachment to this letter.
- ☐ We do not intend to submit a bid, and we have no exceptions to the RFP requirements.
- ☐ We do not intend to submit a bid because of one or more exceptions to the RFP requirements for reasons stated in an attachment to this letter.

The individual to whom all further information regarding this RFP should be transmitted is:

Name:

Title:

Address, City, State, and Zip:

Phone Number: (    )

Fax Number: (    )

E-mail Address:

***We are enclosing with this letter a signed Confidentiality Statement and Financial Responsibility Information.***

Sincerely,

---

Typed Name and Title

---

Signature

---

Date

# Request For Proposal

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### EXHIBIT D – FINANCIAL INTEREST DISCLOSURE

[Bidder must use company letterhead]

**Date**

**Department of General Services**

**Procurement Division**

**[DGS Contact Name]**

**1823 –14<sup>th</sup> Street, Room 100**

**Sacramento, CA 95814**

In response to the Child Welfare Services Case Management System (CWS/CMS) New System Project Management Support Services Request for Proposal (RFP) Section 2.2.10, [Bidder Company Name] discloses the following financial interests (e.g., service contract, Original Equipment Manufacturer (OEM) agreements, re-marketing agreements) that may foresee ably allow [Bidder Company Name] to materially benefit from the State's adoption of a course of action recommended in previous work with the State. [Bidder Company Name] understands that, if in the State's judgment the financial interest will jeopardize the objectivity of the services resulting from this procurement, the State may reject [Bidder Company Name] response to this RFP.

| Financial Interest Information<br>(Expand as needed)   |                 |                |                |
|--|-----------------|----------------|----------------|
| Organization   | Contract #      | Contract Dates | Contract Title |
|  |                 |                |                |
|  | Contract Focus: |                |                |
|  |                 |                |                |
|  | Contract Focus: |                |                |
| [Bidder Company to enter a statement in this box if they determine that there are no financial interests to disclose relating to this procurement] |                 |                |                |

If the State has any questions, please contact [Bidder Company Contact Name] at [Bidder Company Contact Name telephone number].

[Signature of individual authorized to contractually bind the bidding firm]

[Title of individual signing this letter]

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### EXHIBIT E – STATEMENT OF EXPERIENCE AND FINANCIAL CONDITION

**SUBMITTED BY:** \_\_\_\_\_

**NAME OF FIRM:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**DATES OF FINANCIAL  
STATEMENTS:** \_\_\_\_\_

### PRIVACY NOTIFICATION

The State of California Information Practices Act of 1977 requires the State to provide the following information to individuals who are asked to supply information about themselves:

- The principal purpose for requesting the information on this form is to provide financial information to determine financial qualification. State policy and State and Federal statutes authorize maintenance of this information.
- Furnishing all information on this form is mandatory. Failure to provide such information will delay or may even prevent completion of the action for which the form is being completed.
- The official responsible for maintaining the information contained in this form is the Procurement Division Official identified in Section 1.7.
- The State will treat all financial information provided as confidential when designated as such. This information will only be shared with State personnel involved in the evaluation. All financial data will be returned or destroyed if requested. Bidders may be required to provide additional financial data as part of the RFP process.



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### REQUIREMENTS

The Bidder shall attach financial information for the most recent three (3) years, accompanied by the following statement, which has the title(s) and signature(s) of the individual(s) who prepared, examined or reviewed the information.

“We have (**prepared/examined/reviewed**) the balance sheet(s) of (**Bidder**) as of (**date**) and the related information of income, retained earnings and changes in financial position for the year(s) then ended.

“In (**my/our**) opinion, the financial information mentioned presents fairly the financial position of (**Bidder**) as of (**date**) and the results of its operations and changes in its financial position for the year(s) then ended, in conformity with generally accepted accounting principles applied on a consistent basis.”

|                                    |                       |      |
|------------------------------------|-----------------------|------|
|                                    |                       |      |
|                                    |                       |      |
| Typed Name and Title of Preparer   | Signature of Preparer | Date |
|                                    |                       |      |
|                                    |                       |      |
| Name of Company:                   |                       |      |
|                                    |                       |      |
|                                    |                       |      |
| Company Address, City, State, Zip: |                       |      |

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### EXHIBIT F – CONFIDENTIALITY STATEMENT

As an authorized representative and/or corporate officer of the company named below, I warrant my company and its employees will not disclose any documents, diagrams, information and information storage media made available to us by the State for the purpose of responding to CWS/CMS New System Project Management Support Services RFP #4130-161 PMSS or in conjunction with any contract arising therefore. I warrant that only those employees who are authorized and required to use such materials will have access to them.

I further warrant that all materials provided by the State will be returned promptly after use and that all copies or derivations of the materials will be physically and/or electronically destroyed. I will include with the returned materials, a letter attesting to the complete return of materials, and documenting the destruction of copies and derivations. Failure to comply will subject this company to liability, both criminal and civil, including all damages to the State and third parties. I authorize the State to inspect and verify the above.

I warrant that if my company is awarded the contract, it will not enter into any agreements or discussions with a third party concerning such materials prior to receiving written confirmation from the State that such third party has an agreement with the State similar in nature to this one.

|  |                             |      |
|--|-----------------------------|------|
|  |                             |      |
| Typed Name and Title of Representative | Signature of Representative | Date |
|  |                             |      |
| Typed Name of Company                  |                             |      |

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### **EXHIBIT G – PAYEE DATA RECORD**

(Mandatory)

To review, complete, and sign the Standard Form 204 Payee Data record form, see DGS web site reference:

<http://www.osp.dgs.ca.gov/default.htm>

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### EXHIBIT H – WORKERS’ COMPENSATION CERTIFICATION

(Mandatory)

The undersigned in submitting this document hereby certifies the following:

I am aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with such provisions before commencing the performance of the work of this Contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

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### EXHIBIT I – NON-DISCRIMINATION COMPLIANCE STATEMENT

|  |                           |
|--|---------------------------|
| State of California<br>Non-discrimination Compliance Statement<br>Std. 19 (REV. 3-95)  |                           |
| Company Name   |                           |
| The company named above (hereinafter referred to as “prospective Contractor”) hereby certifies, unless specifically exempted, compliance with Government Code Section 12990 (a-f) and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Non-discrimination Program, the prospective Contractor agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (e.g., cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. |                           |
| CERTIFICATION  |                           |
| <i>I, the official named below, hereby swear that I am duly authorized to legally bind the prospective Contractor to the above-described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.</i>  |                           |
| OFFICIAL’S NAME  |                           |
| DATE EXECUTED  | EXECUTED IN THE COUNTY OF |
| PROSPECTIVE CONTRACTOR’S SIGNATURE   |                           |
| PROSPECTIVE CONTRACTOR’S TITLE   |                           |
| PROSPECTIVE CONTRACTOR’S LEGAL BUSINESS NAME   |                           |

# **Request For Proposal**

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### **EXHIBIT J – DVBE PARTICIPATION PROGRAM COMPLIANCE OPTIONS**

(Mandatory)

#### **Std 840**

Review, complete and sign the Standard Form 840 (rev. 1/2005) at the following DGS website “Small Business and DVBE Services” by following the link provided directly below:

<http://www.documents.dgs.ca.gov/pd/dvbe/dvbereq.pdf>

#### **GSPD-05-105**

Review, complete and sign the Bidder Declaration form GSPD-05-105 (est. 8/2005) found at the following link:

<http://www.documents.dgs.ca.gov/pd/delegations/GSPD105.pdf>

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### **EXHIBIT K – TARGET AREA CONTRACT PREFERENCE**

Insert Target Area Contract Preference Act (TACPA) Form (Standard Form 830) here, if applicable.

Form can be downloaded from the following website:

<http://www.documents.dgs.ca.gov/osp/pdf/std830.pdf>

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### **EXHIBIT L – LOCAL AGENCY MILITARY BASE RECOVERY ACT (LAMBRA) PREFERENCE**

California Government Code 7117 et. seq. and California Code of Regulations, Title 2, Section 1896, 100 et. seq. provides that California based companies may be granted preferences when bidding on State contracts in excess of \$100,000 if they qualify for and apply for the LAMBRA preference.

Contractors wishing to apply for this preference must complete the LAMBRA form (832) and return it (identified as Exhibit J) with their bid response. Please review the following web site for more detail regarding this preference.

[HTTP://WWW.DOCUMENTS.DGS.CA.GOV/OSP/PDF/STD832.PDF](http://www.documents.dgs.ca.gov/osp/pdf/std832.pdf)



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### EXHIBIT M – ENTERPRISE ZONE ACT

Government Code 7080, et. seq., provides that California based companies may be granted preferences when bidding on State contracts in excess of \$100,000 for goods and services (excluding construction contracts) if the business site is located within designated “Enterprise Zones”. Bidders desiring to claim this preference must submit a fully executed copy of the *Standard Form 831* with their Draft and Final Proposals.

All Bidders are able to download this Enterprise Zone Act (EZA) Form (831) from the following web site:

<http://www.documents.dgs.ca.gov/osp/pdf/std831.pdf>

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### EXHIBIT N – SMALL BUSINESS CERTIFICATION FORM

To claim the small business preference the firm must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the State Office of Small Business Certification and Resources (OSBCR) by the proposal due date listed in Section 1.8, Key Action Dates and be verified by such office. Questions regarding the preference approval process should be directed to the Office of Small Business Certification at (916) 375-4940.

#### BIDDERS, PLEASE CHECK THE APPROPRIATE LINE:

- \_\_\_\_\_ I am not claiming any Small Business Preference.
- \_\_\_\_\_ I am a California Certified Small Business applying for a preference on this bid. A copy of my Small Business approval letter from DGS is attached. My Small Business number is: \_\_\_\_\_.
- \_\_\_\_\_ I have/will have a Small Business Certification request application submitted to DGS no later than 5:00 PM on the Final Bid due date.
- \_\_\_\_\_ I am a Non-Small Business, claiming to provide a twenty-five percent (25%) commercial useful function business opportunity to California Certified Small Business Subcontractors. We have attached the list of small business contractors that will be used for this contract. The information provided includes: 1) subcontractor name; 2) address; 3) phone number; 4) a description of the work to be performed and/or products supplied; 5) the percentage of net bid price per subcontractor; and 6) a copy of the Small Business approval letter from DGS for each subcontractor.

Company Name \_\_\_\_\_  
Signature \_\_\_\_\_  
Title \_\_\_\_\_

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### EXHIBIT O – PAST PERFORMANCE REFERENCE

Bidder Company Name: \_\_\_\_\_

#### Section 1. To be completed by the Bidder

|   |    |                       |
|---|----|-----------------------|
| A. Customer Company Name:   |    | _____                 |
| Project Name:   |    | _____                 |
| Original Bid Contract Value:  | \$ | _____                 |
| Actual Total Contract Value:  | \$ | _____                 |
| Reasons for Change in Values:   |    | _____                 |
|   |    | _____                 |
|   |    | _____                 |
|   |    | _____                 |
| Contract Begin/End Dates:   |    | From: _____ To: _____ |
| If the original contract was extended beyond the planned end date, briefly describe the reason(s) for extensions. _____ |    |                       |
| _____   |    |                       |
| Contract Extension Dates:   |    | From: _____ To: _____ |

| Contractor Staff | Capacity or Role | From | To |
|------------------|------------------|------|----|
|                  |                  |      |    |
|                  |                  |      |    |
|                  |                  |      |    |

#### B. Briefly describe the services provided under this Contract. (expand as needed)

|  |
|--|
|  |
|  |
|  |

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Bidder Company: \_\_\_\_\_ Customer Company: \_\_\_\_\_

### Section 1. Continued

|                 |                               |            |
|-----------------|-------------------------------|------------|
| Agency/Company: | _____                         |            |
| Address:        | _____<br>_____                |            |
|                 | Primary Contact Information   |            |
| Name:           | _____                         |            |
| Title:          | _____                         |            |
| Telephone:      | _____                         | Fax: _____ |
| E-mail address: | _____                         |            |
|                 | Secondary Contact Information |            |
| Name:           | _____                         |            |
| Title:          | _____                         |            |
| Telephone:      | _____                         | Fax: _____ |
| E-mail address: | _____                         |            |

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Bidder Company:\_\_\_\_\_ Customer Company:\_\_\_\_\_

Section II: To be completed by the Customer Company

### PAST PERFORMANCE REFERENCE CHECK

Please review the information provided by the contractor of your project and validate that the information is or is not correct. If the information is not correct, use the Validation section at the end of this evaluation form to indicate what is not correct and why.

Please rate the contractor's performance in each of the following three categories:  
General Performance, Project Management and Business Relations.

Circle the number, which corresponds to the performance rating for each category according to the rating scale described below. In addition, comments are appreciated, but will not be scored.

Once you have completed the form, please return it to the Bidder company. The State will make three attempts to contact the Primary and Secondary Contacts listed in Section I to verify your responses.

**The State of California appreciates your participation.**

*Your specific responses and comments  
will be held in strictest confidence.*

### RATING GUIDELINES

| Selection | Rating                                    |
|-----------|---|
| 5         | Significantly exceeded your expectations. |
| 4         | Somewhat exceeded your expectations.      |
| 3         | Met your expectations.                    |
| 2         | Somewhat below your expectations          |
| 1         | Significantly below your expectations.    |

As a representative of the Customer Company listed above, I approved the responses to the following statements about the performance of the Bidder Company listed above on the project identified in Section I of this Past Performance Reference.

|               |                |
|---------------|----------------|
| Printed Name: | Printed Title: |
| Signature:    | Date:          |

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Bidder Company:\_\_\_\_\_ Customer Company:\_\_\_\_\_

### A. Past Performance Reference: General Performance

| <u>Criteria</u>  | <u>Rating</u> |
|--|---------------|
| a. Formal documentation was accurate and thorough.   | 5 4 3 2 1     |
| b. The Contractor provided strong technical knowledge and proficiency.   | 5 4 3 2 1     |
| c. The Contractor provided approved staff with appropriate skill sets.   | 5 4 3 2 1     |
| d. The Contractor effectively managed their project staff.   | 5 4 3 2 1     |
| e. The Contractor met all tasks and deliverables to the satisfaction of the project.   | 5 4 3 2 1     |
| f. High quality and frequent knowledge transfer was regularly part of the Contractor's performance.  | 5 4 3 2 1     |
| g. The Contractor provided advance notice of slippages and appropriate mitigation.   | 5 4 3 2 1     |
| h. Final deliverables were completed within ten percent (10%) of the agreed-upon schedule, unless conditions were out of the Contractor's control. | 5 4 3 2 1     |
| i. Work was completed within original bid budget (contract value).   | 5 4 3 2 1     |
| j. The Contractor provided satisfactory written reports and project documentation.   | 5 4 3 2 1     |
| k. The Contractor provided satisfactory oral presentations and/or briefings.   | 5 4 3 2 1     |
| l. Contractor billings were current, accurate, and complete.   | 5 4 3 2 1     |

Comments:

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Bidder Company:\_\_\_\_\_ Customer Company:\_\_\_\_\_

### B. Past Performance Reference: Project Management

| <u>Criteria</u>   | <u>Rating</u> |
|---|---------------|
| m. The Contractor identified risks early and worked together as a team with the Customer team to eliminate or mitigate the risks. | 5 4 3 2 1     |
| n. The Contractor effectively executed and managed the agreed-to project management plan.   | 5 4 3 2 1     |
| o. The Contractor effectively maintained the agreed-to project schedule.  | 5 4 3 2 1     |
| p. The Contractor effectively managed communication among the project team.   | 5 4 3 2 1     |
| q. The Contractor effectively managed concerns and communications of all stakeholders, including oversight organizations.         | 5 4 3 2 1     |
| r. Project Management activities encouraged defect identification and prevention.   | 5 4 3 2 1     |
| s. The Contractor provided effective scope management to control cost and schedule.   | 5 4 3 2 1     |
| t. The Contractor facilitated quality management of project tasks and deliverables.   | 5 4 3 2 1     |
| u. The Contractor provided effective and documented change control.   | 5 4 3 2 1     |
| v. The Contractor provided overall effective Project Management of the Customer's project.  | 5 4 3 2 1     |

Comments: \_\_\_\_\_

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Bidder Company:\_\_\_\_\_ Customer Company:\_\_\_\_\_

### C. Past Performance Reference: Business Relations

| <u>Criteria</u>   | <u>Rating</u> |
|---|---------------|
| w. The Contractor was cooperative and displayed a businesslike attitude.  | 5 4 3 2 1     |
| x. The Contractor's project management processes fostered a win/win situation to the benefit of the project and the Contractor. | 5 4 3 2 1     |
| y. The Contractor was responsive to Contract requirements (technical and administrative).                                       | 5 4 3 2 1     |
| z. The Contractor provided your company with the level of support your business expected.                                       | 5 4 3 2 1     |

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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[illegible]

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### EXHIBIT P – STAFF RESUME FORMAT

Position for this SOW: \_\_\_\_\_

Staff Name: \_\_\_\_\_

| Experience                                    |        |
|---|--------|
| <b>Job 1</b>                                  |        |
| Contract Title:                               | Dates: |
| Contracting company/organization:             |        |
| Contract value:                               | \$     |
| Contract goals/objectives:                    |        |
|   |        |
| Target services:                              |        |
|   |        |
| System size/complexity:                       |        |
|   |        |
| Individual involvement:                       |        |
| Job Title:                                    | Dates: |
| Company/organization working for at the time: |        |
|   |        |
| Responsibilities/services performed:          |        |
| KSA:<br>(from Table 4)                        |        |
| Reference:                                    |        |
| Name:   |        |
| Number:                                       |        |
|   |        |
| <b>Job 2</b>                                  |        |
| Contract Title:                               | Dates: |
| Contracting company/organization:             |        |
| Contract Value:                               | \$     |
| Contract goals/objectives:                    |        |
|   |        |

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|   |              |                  |
|---|--------------|------------------|
| Target services:                              |              |                  |
|   |              |                  |
| System size/complexity:                       |              |                  |
|   |              |                  |
| Individual involvement:                       |              |                  |
| Job Title:                                    |              | Dates:           |
| Company/organization working for at the time: |              |                  |
|   |              |                  |
| Responsibilities/services performed:          |              |                  |
| KSA:<br>(from Table 4)                        |              |                  |
| Reference:                                    |              |                  |
| Name:<br>Number                               |              |                  |
|   |              |                  |
| <b>Job 3 (etc.)</b>                           |              |                  |
|   |              |                  |
| Individual Qualifications                     |              |                  |
| <b>Certifications (if applicable)</b>         |              |                  |
| PMI/PMP                                       | Member ID#:  |                  |
|   | Earned Date: | Expiration Date: |
| Other   | Member ID#:  |                  |
|   | Earned Date: | Expiration Date: |
|   |              |                  |
| <b>Education</b>                              |              |                  |
| Bachelors:                                    | Subject area | Earned date      |
| 1.  |              |                  |
| 2.  |              |                  |
| Masters:                                      | Subject area | Earned date      |
| 1.  |              |                  |
| 2.  |              |                  |
| Doctorate:                                    | Subject area | Earned date      |
| 1.  |              |                  |
| 2.  |              |                  |

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### EXHIBIT Q – TASK ACCOMPLISHMENT PLAN (TAP) SAMPLE

Contractor Name

[Each TAP must be uniquely numbered by the Contractor.]

[The general purpose of the TAP is to document the resource expenditure plan. For labor, this means documenting the expected labor costs, by month, for the duration of the SOW period of performance. For other costs, the month that the expenditure is planned should be specified.]

[Project management and financial analysts will review the TAP to verify that the timing of the resources is consistent with the overall project plan and budget. Variation from the plan will be common, but variations over a threshold, or consistent over-runs or under-runs, will need to be explained in the monthly report.]

#### Overview

[Provide a brief two or three sentence overview of the work to be performed, such as: “This task accomplishment plan documents ABC Company’s planned expenditures for the Franchise Tax Board, California Child Support Automation System Project”.]

#### Assumptions & Constraints

[Include any constraints or assumptions that are important to your plan. For example, adhering to your plan may require availability of particular software or hardware. There may be inherent assumptions about the rate that your company can staff the project. It is not necessary to repeat information that is already in the SOW.]

This TAP is based upon the following assumptions:

First assumption

Etc.

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Show deliverable costs, by month, by task and by State Fiscal Year, for all tasks. Cost in dollars is required. Hours may also be provided at the Contractor's option.

### TAP SAMPLE FORMAT

| TASK ACCOMPLISHMENT PLAN (TAP) – Expand as Needed |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
|---|---------------------------|--------|--------|--------|--------|--------|--------|----------------|----------------------------------|--------|--------|--------|--------|--------|--------|----|
|   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| Task #  | Total \$ planned per task | Jan 07 | Feb 07 | Mar 07 | Apr 07 | May 07 | Jun 07 | Total FY 06/07 | Jul 07                           | Aug 07 | Sep 07 | Oct 07 | Nov 07 | Dec 07 | Jan 08 |    |
| 6.7.1.1   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.1.2   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.1.3   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.1.4   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.1.5   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| Sub-total Task 1.0                                |                           |        |        |        |        |        |        | \$             | Sub-total Task 1.0               |        |        |        |        |        |        | \$ |
| 6.7.2.1   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.2   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.3   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.4   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.5   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.6   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.7   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| 6.7.2.8   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| Sub-total Task 2.0                                |                           |        |        |        |        |        |        | \$             | Sub-total Task 2.0               |        |        |        |        |        |        | \$ |
| 6.7.3   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| Sub-total Task 3.0                                |                           |        |        |        |        |        |        | \$             | Sub-total Task 3.0               |        |        |        |        |        |        | \$ |
| Monthly totals                                    |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| Contract totals                                   |                           |        |        |        |        |        |        |                |                                  |        |        |        |        |        |        |    |
| Total: State Fiscal Year 2006/07                  |                           |        |        |        |        |        |        | \$             | Total: State Fiscal Year 2007/08 |        |        |        |        |        |        | \$ |

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### EXHIBIT R – MONTHLY REPORT BUDGET DATA

***Double click on the embedded Excel Workbook below to see acceptable samples of the three (3) required reports (use tabs at bottom of first spreadsheet to access the remaining samples). Formulas have not been included in order to allow Bidders to customize their own reports. In addition, the Contractor must complete each spreadsheet to ensure all months and years of the contract are included. Each report has been formatted to expand to a landscape orientation. These reports are due after contract execution in the Contractor's Monthly Status Reports.***

Sample monthly report budget details (embedded Excel Workbook)

| te   |                    |                                |                         |                                     |                             |
|--|--------------------|--------------------------------|-------------------------|-------------------------------------|-----------------------------|
| nth  |                    |                                |                         |                                     |                             |
| Deliverable  | Actual Dec 05 Cost | Planned Dec 05 Cost (from TAP) | Cumulative Actual Costs | Cumulative Planned Costs (from TAP) | Cumulative Variance to Date |
| 6.7.1.1 Detailed Work Plan   |                    |                                |                         |                                     |                             |
| 6.7.1.2 Task Accomplishment Plan   |                    |                                |                         |                                     |                             |
| 6.7.1.3 Project Management Briefings and Presentations                       |                    |                                |                         |                                     |                             |
| 6.7.1.4 Monthly Progress Reports   |                    |                                |                         |                                     |                             |
| 6.7.1.5 Final Report   |                    |                                |                         |                                     |                             |
| 6.7.2.1 New System Master Project Plan and Task Report                       |                    |                                |                         |                                     |                             |
| 6.7.2.2 Project Management Activities and Task Report                        |                    |                                |                         |                                     |                             |
| 6.7.2.3 System Architecture Support and Task Report                          |                    |                                |                         |                                     |                             |
| 6.7.2.4 System Development Support and Taks Report                           |                    |                                |                         |                                     |                             |
| 6.7.2.5 Project Process Improvement and Task Report                          |                    |                                |                         |                                     |                             |
| 6.7.2.6 Current Project Documents and Task Report                            |                    |                                |                         |                                     |                             |
| 6.7.2.7 Oversight Organizations and Control Agencies Support and Task Report |                    |                                |                         |                                     |                             |
| 6.7.2.8 Transition Out and Task Report                                       |                    |                                |                         |                                     |                             |
| 6.7.3 Un-Anticipated Tasks   |                    |                                |                         |                                     |                             |

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### EXHIBIT S – RESOURCE AND COST PLAN

Complete the Resource and Cost Plan per State fiscal year, listing proposed staff for all tasks. Expand rows if multiple staff will be assigned to one task. Expand other table attributes as needed.

| Resource and Cost Plan               |   |  |                |            |      |            |      |            |      |            |
|--------------------------------------|---|--|----------------|------------|------|------------|------|------------|------|------------|
| Core Contract and each Optional Year |   |  |                | FY 2007-06 |      | FY 2007-08 |      | Etc.       |      |            |
| Task                                 | Proposed Staff Name(s) and/or Subcontractor(s)                              |  | Hourly Rate(s) | # of Hours | Cost | # of Hours | Cost | # of Hours | Cost | Total Cost |
| 6.7.1.1                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.1.2                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.1.3                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.1.4                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.1.5                              |   |  |                |            |      |            |      |            |      |            |
| Task/Deliverable 1.0 Subtotal        |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.1                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.2                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.3                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.4                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.5                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.6                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.7                              |   |  |                |            |      |            |      |            |      |            |
| 6.7.2.8                              |   |  |                |            |      |            |      |            |      |            |
| Task/Deliverable 2.0 Subtotal        |   |  |                |            |      |            |      |            |      |            |
|                                      |   |  |                |            |      |            |      |            |      |            |
| Sub-Total of Task Groups 1 and 2     |   |  |                |            |      |            |      |            |      |            |
|                                      |   |  |                |            |      |            |      |            |      |            |
| 6.7.3                                | Task/Deliverable 3.0 not to exceed 10% of Sub-Total of Task Groups 1 and 2I |  |                |            |      |            |      |            |      |            |
|                                      |   |  |                |            |      |            |      |            |      |            |
| TOTALS                               |   |  |                |            |      |            |      |            |      |            |

Cost for Un-anticipated Tasks shall not exceed 10 percent (10%) of proposed costs for Task Groups 1 and 2.

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### EXHIBIT T – COST SUMMARY

Enter the following line items from the Resource and Cost Plan (Exhibit R) for each State Fiscal Year (SFY):

| Cost Items                                  | SFY<br>2006-07 | SFY<br>2007-08 | SFY<br>2008-09 | SFY<br>2009-10 | SFY<br>2010-11 | TOTAL |
|---|----------------|----------------|----------------|----------------|----------------|-------|
| Core Contract Term                          | \$             | \$             | \$             | NA             | NA             | \$    |
| Optional 1 <sup>st</sup> Year Contract Term | NA             | NA             | NA             | \$             | NA             | \$    |
| Optional 2 <sup>nd</sup> Year Contract Term | NA             | NA             | NA             | NA             | \$             | \$    |
| <b>TOTAL</b>                                | \$             | \$             | \$             | \$             | \$             | \$    |



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### EXHIBIT U – SAMPLE WORK AUTHORIZATION

(For Tasks Authorized Under Task 6.7.3 – Un-anticipated Tasks)

#### A. Task and Deliverables Authorized

| Item # | Task/Deliverable Description | Estimated Completion Date |
|--------|------------------------------|---------------------------|
| #      |                              |                           |
| #      |                              |                           |
| #      |                              |                           |

Estimated Staff Hours and Costs (double click on worksheet to open in Excel)

| Work Authorization Hours and Costs   |        |                |             |                 |            |
|--|--------|----------------|-------------|-----------------|------------|
| Task/Deliverable   | Person | Labor Category | Hourly Rate | Number of Hours | Total Cost |
| #  |        |                |             |                 |            |
| #  |        |                |             |                 |            |
| Task/Deliverable 1 Subtotal  |        |                |             |                 | \$0.00     |
| #  |        |                |             |                 |            |
| Task/Deliverable 2 Subtotal  |        |                |             |                 | \$0.00     |
| Expand spreadsheet to include all Tasks/Deliverables and contractor staff proposed for each task/deliverable |        |                |             |                 |            |
| Work Authorization TOTAL   |        |                |             |                 | \$0.00     |

Work may commence when authorized by the following:

| Agency     | Name | Signature | Date |
|------------|------|-----------|------|
| OSI        |      |           |      |
| Contractor |      |           |      |

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### B. Authorized work accepted:

| Item # | Task/Deliverable Description | Actual Completion Date |
|--------|------------------------------|------------------------|
| #      |                              |                        |
| #      |                              |                        |
| #      |                              |                        |

### Actual Staff Hours and Costs (double click on worksheet to open in Excel)

| Work Authoriztion Hours and Costs  |        |                |             |                 |            |
|--|--------|----------------|-------------|-----------------|------------|
| Task/Deliverable   | Person | Labor Category | Hourly Rate | Number of Hours | Total Cost |
| #  |        |                |             |                 |            |
| #  |        |                |             |                 |            |
| Task/Deliverable 1 Subtotal  |        |                |             |                 | \$0.00     |
| #  |        |                |             |                 |            |
| Task/Deliverable 2 Subtotal  |        |                |             |                 | \$0.00     |
| Expand spreadsheet to include all Tasks/Deliverables and contractor staff proposed for each task/deliverable |        |                |             |                 |            |
| Work Authoriztion TOTAL  |        |                |             |                 | \$0.00     |

### Authorization to accept completed work:

| Agency     | Name | Signature | Date |
|------------|------|-----------|------|
| OSI        |      |           |      |
| Contractor |      |           |      |

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### EXHIBIT V – ALTERNATIVE PROTEST REGULATIONS

#### Article 1. General Provisions

##### 1400. Purpose; Scope of Chapter

Protests under the Alternative Protest Pilot Project (AB 1159, Chapter 762 of 1997 Statutes, Public Contract Code Division 2, Part 2, Chapter 3.6 (sections 12125 - 12130)) shall be resolved by arbitration as defined and established by this chapter.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

##### 1402. Definitions

- a. **Arbitration**, as used in this chapter, means a dispute resolution procedure in which the Department of General Services, Office of Administrative Hearings provides a neutral third party who decides the merits of a protest and issues a binding decision to the Parties.
- b. **Awardee** includes **Proposed Awardee** and means the person or entity that was a successful bidder to a Solicitation and has been, or is intended to be, awarded the contract.
- c. **Close of Business**, as used in this chapter, means 5p.m. Pacific Standard Time (PST) or Pacific Daylight Time (PDT), as applicable.
- d. **Contracting Department** means either Procurement or the department which has applied and been approved by the Department of General Services to conduct the Solicitation under the Alternative Protest Pilot Project (Public Contract Code sections 12125 - 12130.).
- e. **Coordinator** means the person designated as the Alternative Protest Pilot Project Coordinator by the Department of General Services, Procurement Division, to coordinate all aspects of the Solicitation under the Alternative Protest Pilot Project (Public Contract Code sections 12125 - 12130).
- f. **Estimated Contract Value** means the value of Protestant's bid.
- g. **Frivolous** means a protest with any or all of the following characteristics:
  1. It is wholly without merit.
  2. It is insufficient on its face.
  3. The Protestant has not submitted a rational argument based upon the evidence or law which supports the protest.The protest is based on grounds other than those specified in section 1410.
- h. **Major Information Technology Acquisition** means the purchase of goods or services, or both, by a state agency, through contract, from non-governmental sources, that has significant mission criticality, risk, impact, complexity, or value attributes or characteristics. Pursuant to subdivision (e) of Section 11702 of the Government Code, these purchases shall include, but not be limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications that include voice, video, and data communications, requisite system controls,

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- simulation, electronic commerce, and all related interactions between people and machines.
- i. **OA**H means the Department of General Services, Office of Administrative Hearings.
  - j. **Party** means the Procurement Division of the Department of General Services, the Contracting Department, the Awardee, and Protestant(s).
  - k. **Procurement** means the Procurement Division of the Department of General Services.
  - l. **Protestant** means a person or entity that was an unsuccessful bidder to a Solicitation under the Alternative Protest Pilot Project (Public Contract Code sections 12125 - 12130) and that protests the award.
  - m. \*\*\* **Small Business** means a Certified California Small Business, pursuant to Government Code Division 3, Part 5.5, Chapter 6.5 (commencing with section 14835) and Title 2, California Code of Regulations, section 1896.
  - n. **Solicitation** means the document that describes the goods or services to be purchased, details the contract terms and conditions under which the goods or services are to be purchased, and establishes the method of evaluation and selection.
  - o. **Solicitation File** means the Solicitation and the documents used by the Contracting Department in the Solicitation process, including documents used to evaluate bidders and select a Proposed Awardee. The Solicitation File shall remain available to the public except information that is confidential or proprietary.

Note: Authority: Section 12126, Public Contract Code.

Reference: Section 11702, Government Code; Sections 12125-12130, Public Contract Code.

### 1404. Notice of Intent to Award Contract

The Contracting Department shall post a Notice of Intent to Award Contract in a public place specified in the Solicitation, send rejection facsimiles to rejected bidders, and send Notice of Intent to Award Contract facsimiles to any bidder who made a written request for notice and provided a facsimile number. The Contracting Department shall indicate that the Solicitation File is available for inspection. The Contracting Department has the discretion to award a contract immediately, upon approval by the Director of the Department of General Services and, if the Solicitation was for a Major Information Technology Acquisition, the Director of the Department of Information Technology.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

## Article 2. Protest Procedure

### 1406. Notice of Intent to Protest; Service List

- a. An unsuccessful bidder who intends to protest the awarded contract pursuant to this chapter must inform the Coordinator. The Notice of Intent to Protest must be in writing and must reach the Coordinator within the number of days specified in the Solicitation, which shall be not less than 1 working day and not more than 5 working days after the posting of the Notice of Intent to Award Contract, as specified in the Solicitation. Failure to give written notice by Close of Business on that day shall waive the right to protest.
- b. On the day after the final day to submit a Notice of Intent to Protest, the Coordinator shall make a service list consisting of those bidders who did submit a Notice of Intent to

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Protest, the Awardee, and the Contracting Department. The Coordinator shall include addresses and facsimile numbers on this list and shall forward this service list to those bidders who submitted a Notice of Intent to Protest.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1408. Filing a Protest

- a. A protest is filed by the submission of: the Detailed Written Statement of Protest and any exhibits specified in section 1412; a check or money order made payable to the Office of Administrative Hearings for the OAH filing fee of \$50; and the arbitration deposit as specified in subsection (c) or (d) to the Coordinator by the Close of Business on the 7th working day after the time specified in the Solicitation for written Notice of Intent to Protest under section 1406. A copy of the Detailed Written Statement of Protest and exhibits must also be served on all Parties named in the service list as specified in section 1406. A Protestant who fails to comply with this subsection waives Protestant's right to protest.
- b. Protestant(s) must provide a FAX (facsimile) number. Notification by facsimile is sufficient for service. If the Detailed Written Statement of Protest is sent to the Coordinator by facsimile, Protestant must:
  1. Verify that the pages sent were all received by the Coordinator; and
  2. Remit the required deposit and filing fee to Coordinator by any reasonable means. If sending via carrier, the postmark date or equivalent shall be used to determine timeliness.
- c. Each Protestant not certified as a Small Business shall make a deposit of the estimated arbitration costs, by check or money order made payable to the Office of Administrative Hearings, as determined by the Estimated Contract Value.
  1. For contracts up to \$100,000.00, the deposit shall be \$1500.00.
  2. For contracts of \$100,000.00 up to \$250,000.00, the deposit shall be \$3,000.00.
  3. For contracts of \$250,000.00 up to \$500,000.00, the deposit shall be \$5,000.00.
  4. For contracts of \$500,000.00 and above, the deposit shall be \$7,000.00.
  5. Failure to remit a timely required deposit waives the right of protest.
  6. Any refund to Protestant(s) shall be made per section 1436.
- d. Each Protestant certified as a Small Business shall submit a copy of the Small Business Certification in lieu of the deposit specified in subsection (c). If Protestant is a Small Business and the protest is denied by the arbitrator, the Contracting Department shall collect the costs of the arbitration from Protestant. If Protestant does not remit the costs due, the Contracting Department may offset any unpaid arbitration costs from other contracts with Protestant and/or may declare Protestant to be a non-responsible bidder on subsequent solicitations.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1410. Grounds for Protest

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- a. The Public Contract Code, at section 12126(d) provides: Authority to protest under this chapter shall be limited to participating bidders.
  - 1. Grounds for Major Information Technology Acquisition protests shall be limited to violations of the Solicitation procedures and that the Protestant should have been selected.
  - 2. Any other acquisition protest filed pursuant to this chapter shall be based on the ground that the bid or proposal should have been selected in accordance with selection criteria in the Solicitation document.
- b. The burden of proof for protests filed under this chapter is preponderance of the evidence, and Protestant(s) must bear this burden.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1412. Detailed Written Statement of Protest

- a. The Detailed Written Statement of Protest must include the grounds upon which the protest is made, as specified in 1410(a).
- b. The Detailed Written Statement of Protest shall contain reasons why Protestant should have been awarded the contract.
  - 1. For Major Information Technology Acquisition protests, the Detailed Written Statement of Protest must specify each and every Solicitation procedure which was violated and the manner of such violation by specific references to the parts of the Solicitation attached as exhibits and why, but for that violation, Protestant would have been selected.
  - 2. For other acquisition protests, the Detailed Written Statement of Protest must specify each and every selection criterion on which Protestant bases the protest by specific references to the parts of the Solicitation attached as exhibits.
  - 3. For all protests, Protestant must specify each and every reason that all other bidders who may be in line for the contract award should not be awarded the contract.
- c. The Detailed Written Statement of Protest must be limited to 50 typewritten or computer generated pages, excluding exhibits, at a font of no less than 12 point or pica (10 characters per inch), on 8 1/2 inch by 11-inch paper of customary weight and quality. The color of the type shall be blue-black or black. In addition to a paper copy, the arbitrator may request that a Protestant submit such information on computer compatible diskette or by other electronic means if the Protestant has the ability to do so.
- d. Any exhibits submitted shall be paginated and the pertinent text highlighted or referred to in the Detailed Written Statement of Protest referenced by page number, section and/or paragraph and line number, as appropriate.
- e. The Detailed Written Statement of Protest shall not be amended.
- f. Protestant(s) may not raise issues in hearing which were not addressed in the Detailed Written Statement of Protest.
- g. A Protestant who fails to comply with this subsection waives Protestant's right to protest.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

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### 1414. Review by Coordinator

- a. Within 2 working days after receipt of the Detailed Written Statement of Protest, the Coordinator shall notify the Contracting Department and the Awardee of a potential protest hearing.
- b. The Coordinator shall review the Detailed Written Statement of Protest within 5 working days after receipt to preliminarily determine if the protest is Frivolous and notify Protestant of the option to withdraw or proceed in arbitration.
  1. If Protestant withdraws the protest within 2 working days after the notification by the Coordinator of a preliminary determination of Frivolousness, the Coordinator shall withdraw the preliminary finding of Frivolousness and refund Protestant's deposit and filing fee.
  2. If the Protestant previously filed two protests under the Alternative Protest Pilot Project preliminarily determined Frivolous by the Coordinator but then withdrew or waived them before the arbitration decision, the Coordinator shall make final the preliminary determination of Frivolousness for the Department of General Services. \*\*\*

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1416. Review and Response by Contracting Department and Awardee

- a. The Awardee shall have 7 working days after notification by the Coordinator to submit to the Coordinator and Protestant a response to the Detailed Written Statement of Protest.
- b. The Contracting Department, in conjunction with the Coordinator, shall have 7 days after the filing of the Detailed Written Statement of Protest to send a response to Protestant and Awardee.
- c. Responses shall follow the standards set forth in section 1412(c) and (d).

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1418. Bond Requirement

- a. If the Coordinator has determined that a protest is Frivolous and the Protestant does not withdraw the protest, the Protestant shall be required to post a bond in an amount not less than 10% of the Estimated Contract Value.
- b. The percentage of the bond shall be determined by the Contracting Department and specified in the Solicitation.
- c. Protestant shall post the bond, pursuant to Chapter 2 (commencing with section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure, within 15 working days of the filing of the Detailed Written Statement of Protest or shall be deemed to have waived the right to protest.
  1. If the arbitrator determines that the protest is Frivolous, the bond shall be forfeited to Procurement and the Coordinator will impose Sanctions.

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2. If the arbitrator determines that the protest is not Frivolous, the bond will be returned to the Protestant and no Sanctions imposed.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 995.010 et. seq., Code of Civil Procedure; Sections 12125-12130, Public Contract Code.

### Article 3. Arbitration Procedure

#### 1420. Arbitration Process

Within 19 calendar days after the Notice of Intent to Award has been posted, the Coordinator shall consolidate all remaining protests under the Solicitation, and send to OAH:

- a. a copy of all Detailed Written Statements of Protest;
- b. OAH filing fees;
- c. arbitration deposits, and/or notice that any Protestant is a Small Business;
- d. Awardee responses;
- e. Coordinator/Contracting Department responses;
- f. the Solicitation File; and
- g. notice to OAH whether interpreter services will be needed for any Protestant or Awardee. OAH shall arrange interpreter services which shall be paid by the Contracting Department.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

#### 1422. Selection of Arbitrator

- a. Within 2 working days after receipt of the protest from the Coordinator, OAH shall furnish the names of ten arbitrators to Protestant(s), the Awardee, and the Coordinator. The arbitrator list shall include administrative law judges who are employees of OAH and contract private arbitrators who are not employees of the State of California. Protestant(s), the Awardee, and the Coordinator may each strike two of the ten names and notify OAH within 2 working days. Protestant(s) may also indicate if they prefer a contract arbitrator or an OAH administrative law judge. OAH may then select as arbitrator any name not stricken and shall notify Protestant(s), the Awardee, and the Coordinator within 2 working days. If all names are stricken, the Director of OAH shall appoint an arbitrator.
- b. A proposed arbitrator shall be disqualified on any of the grounds specified in Section 170.1 of the Code of Civil Procedure for the disqualification of a judge.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

#### 1424. Authority of Arbitrator

- a. Arbitrators are authorized to



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1. Administer oaths and affirmations;
  2. Make rulings and orders as are necessary to the fair, impartial, and efficient conduct of the hearing; and
  3. Order additional deposits from Protestant(s) to cover additional estimated costs. If OAH does not receive the required deposit(s) in the time specified, the right to protest will be deemed waived.
- b. The arbitrator shall have exclusive discretion to determine whether oral testimony will be permitted, the number of witnesses, if any, and the amount of time allocated to witnesses.
- c. It shall be in the arbitrator's exclusive discretion to determine whether to
1. Conduct a prehearing conference; and/or
  2. Permit cross-examination and, if so, to what extent; and/or
  3. Review documents alone for all or part of the protest.
- d. It shall be in the arbitrator's exclusive discretion to determine whether additional responses and rebuttals are to be submitted, and the timelines and page limits to be applied.

Note:

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1426. Decision based in whole or in part on documents alone

Any Party may request that the arbitrator base the arbitrator's decision on documents alone. It shall be the arbitrator's exclusive discretion to do so.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1428. Prehearing Conference

- a. If the arbitrator determines that a prehearing conference is necessary, OAH shall set the time and place and notify Protestant(s), the Awardee, and Procurement at least 5 working days prior to the prehearing conference.
- b. The prehearing conference shall be held to identify and define issues in dispute and expedite the arbitration. The parties should be prepared to discuss, and the arbitrator may consider and rule on, any of the following matters applicable to the protest:
  1. Clarification of factual and legal issues in dispute as set forth in the Detailed Written Statement of Protest.
  2. The extent to which testimony shall be permitted and the extent to which cross-examination will be allowed.
  3. Identity of and limitations on number of witnesses, need for interpreters, scheduling and order of witnesses, etc., Any other matters as shall promote the orderly and efficient conduct of the hearing.
- c. At the prehearing conference, Protestant(s), the Awardee, and Procurement shall deliver a written statement which contains the name of each witness a party wishes to call at hearing along with a brief written statement of the subject matter of the witness's expected testimony. If the arbitrator, in his or her exclusive discretion, allows an expert witness to be called, the party calling the witness shall provide the name and address of

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the expert along with a brief statement of the opinion the expert is expected to give. The party shall also attach a statement of qualifications for the expert witness.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1430. Scheduling the hearing

The arbitrator shall schedule the date, time, and place of hearing and notify all Parties.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1432. Discovery

The arbitrator has exclusive discretion to issue subpoenas and/or subpoena duces tecum.

There shall be no right to take depositions, issue interrogatories, or subpoena persons or documents.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1434. Attendance at Hearings

The Arbitration hearings shall be open to the public unless the arbitrator, in his or her exclusive discretion, determines that the attendance of individuals or groups of individuals would disrupt or delay the orderly conduct or timely completion of the proceedings.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1436. Arbitrator's Decision

- a. The final decision shall be in writing and signed by the arbitrator. It shall include a Statement of the Factual and Legal Basis for the decision, addressing the issues raised in the Detailed Written Statement(s) of Protest, and shall include an order upholding or denying the protest(s). The arbitrator's order shall not award a contract.
- b. A copy of the decision shall be sent by regular mail to Procurement, the Contracting Department, the Awardee, and Protestant(s) within 45 calendar days after the filing of the first Detailed Written Statement of Protest. In the arbitrator's exclusive discretion, this timeline may be extended for an additional 15 calendar days. The arbitrator's failure to issue a decision within the time specified by this section shall not be a ground for vacating the decision.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1437. Costs; Sanctions

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- a. For protests not determined Frivolous by Procurement:
  1. If the arbitrator denies the protest, Protestant(s) will be liable for all costs of the arbitration. \*\*\*
  2. If the arbitrator upholds the protest, the Contracting Department shall pay for all costs of the arbitration and Protestant(s) will be refunded the deposit by OAH.
- b. If Procurement determined that the protest was Frivolous and the arbitrator affirms that the protest is Frivolous, the bond shall be forfeited to Procurement, the protest will be denied, and Protestant(s) will be liable for all costs of the arbitration. \*\*\*
- c. If Procurement determined that the protest was Frivolous and the arbitrator determines that the protest is not Frivolous, any bond(s) posted by Protestant(s) shall be returned.
  1. If the arbitrator denies the protest, Protestant(s) shall be liable for half of the costs of the arbitration. The Contracting Department shall pay the remaining half of the arbitration costs. \*\*\*
  2. If the arbitrator upholds the protest, the Contracting Department shall pay for all costs of the arbitration and Protestant(s) will be refunded the deposit by OAH.
- d. A Protestant who withdraws his or her protest before the arbitrator's decision has been issued will remain liable for all arbitration costs up to the time of withdrawal. These costs include, but are not limited to, the arbitrator's time in preparation, prehearing conferences, and hearing the protest. If Procurement deemed the protest Frivolous, any bond posted shall be forfeited to Procurement \*\*\*.
- e. Except as provided in (f), if any costs are determined to be payable by Protestant(s), that amount shall be subtracted from deposit(s) of Protestant(s) as ordered by the arbitrator. Any additional costs shall be billed to Protestant(s) and any refunds shall be sent to Protestant(s) by OAH.
- f. If a Protestant is a Small Business, then the Contracting Department shall pay OAH all arbitration costs and collect the amount due from Protestant.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1438. Judicial Review

The grounds for judicial review shall be as set forth in Chapter 4 of Title 9 of Part III of the Code of Civil Procedure (commencing with section 1285).

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.

### 1440. Transcripts

- a. A party desiring a transcript of the proceedings shall contact the OAH Transcript Clerk to make arrangements to pay for preparation of the transcript. Prior to preparation of the transcript, a deposit equal to the estimated cost of the transcript shall be paid. Preparation of the transcript will be arranged by the OAH Transcript Clerk. The deposit shall be applied to the actual cost and any excess shall be returned to the party that submitted the request. Any balance due shall be paid by the party or a representative on behalf of the party requesting the transcript before the transcript is released to the requesting party.

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- b. Unless a record of a proceeding or any portion thereof was sealed, any person may request a transcript or a recording of the proceeding. If a record of a proceeding or any portion thereof was sealed, only parties to the proceeding may request a transcript of the sealed portions, and the sealed portions shall not be disclosed to anyone except in accordance with the order sealing the proceeding or subsequent order.

Note: Authority: Section 12126, Public Contract Code.

Reference: Sections 12125-12130, Public Contract Code.